

## Regulatory Analysis

### 871 Chapter 25

#### BENEFIT PAYMENT CONTROL

##### *Purpose and Summary*

Proposed Chapter 25 governs benefit payment control regarding fraudulent activity in unemployment insurance benefits.

##### *Analysis of Impact*

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
The general public will bear the costs.
  - Classes of persons that will benefit from the proposed rulemaking:  
The general public will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
  - Quantitative description of impact:  
Those engaged with fraudulent unemployment insurance benefits may face financial issues under the proposed rules. However, the State of Iowa will overall be more fiscally responsible with this oversight.
  - Qualitative description of impact:  
Those who attempt to fraudulently utilize unemployment insurance benefits will face repercussions.
3. Costs to the State:
  - Implementation and enforcement costs borne by the agency or any other agency:  
The Unemployment Insurance Services Division within the Department employs a team of people to pursue fraudulent unemployment insurance benefit activities.
  - Anticipated effect on state revenues:  
There will be no significant impact on state revenues.
4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:  
The proposed rulemaking makes no changes to costs and benefits. The same administrative costs will exist as prior to this update.
5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:  
No less costly or intrusive methods exist.
6. Alternative methods considered by the agency:
  - Description of any alternative methods that were seriously considered by the agency:  
Not applicable.
  - Reasons why alternative methods were rejected in favor of the proposed rulemaking:  
Not applicable.

##### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small

business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

By removing outdated rules from Chapter 25, this proposed rulemaking reduces confusion and time spent reviewing rules that no longer apply, thus reducing the burden on small businesses.

### *Text of Proposed Rulemaking*

## CHAPTER 25

### BENEFIT PAYMENT CONTROL

#### **871—25.1(96) Definitions.**

*“Administrative penalty”* means the disqualification of a claimant from the receipt of benefits due to fraud or misrepresentation or the willful and knowing failure to disclose a material fact for a period of not more than the remaining benefit year, including the week in which such determination is made.

*“Allegation of fraud”* means any form of communication from a party that implies fraudulent activity.

*“Anonymous tip”* means information about suspected fraudulent activity received from a party who wishes to remain unidentified.

*“Appeals”* means a request for a review by an appeals authority of the department from any determination made by a representative of the department, including any request for a review by a higher appeals authority of a decision made by a lower appeals authority. It also includes any appeal from a determination of a representative, or any appeal or request for a hearing by a properly affected party.

*“Benefits”* means the same as defined in 871—subrule 24.1(18).

*“Claim”* means the same as defined in 871—subrule 24.1(25).

*“Claimant”* means the same as defined in 871—subrule 24.1(26).

*“Earnings”* means the remuneration for services performed.

*“Employing unit”* means the same as defined in Iowa Code section 96.1A(15).

*“Evidence”* means any witnesses’ testimony, records, documents, copies of documents, statements, demonstrations, or any other relevant testimony or concrete objects before the department or at an employment appeal hearing or trial of an issue for the purpose of inducing belief in the minds of the hearing officer, department, court or jury as to the truth of a contention.

*“Fact-finding interview”* means a discussion between a claimant or an employer and an investigator for the purpose of obtaining from the claimant or employer a statement containing information on a specific eligibility or disqualification issue.

*“Fraud”* means the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or the department, shall not act upon it to their, or its, legal injury.

*“Fraudulent activity”* means actions based on or in the spirit of fraud.

*“Initial determination”* means the first determination with respect to a claim or a request for determination of insured status.

*“Intent”* means the design, resolve, or determination with which an individual or group of individuals acts in order to reach a preconceived objective.

*“Investigator”* means an investigation and recovery section investigator.

*“Local office”* means the workforce development center office in which claims functions are performed.

*“Material fact”* means a fact that necessarily has some bearing on the subject matter, such as is necessary to determine the issue.

*“Misconduct”* means the same as defined in Iowa Code section 96.5(2).

*“Misrepresentation”* means to give misleading or deceiving information or omit material information; and to present or represent in a manner at odds with the truth.

*“Month”* means the time beginning with any day of one month to the corresponding day of the next month, or if there is no corresponding day, then through the last day of the next month.

*“Overpayment”* means the amount of unemployment insurance benefits erroneously paid to a claimant due to error, misrepresentation, or fraud.

*“Social security number”* means the same as defined in 871—subrule 24.1(115).

*“Surveillance”* means the observance of activities.

*“Wage cross match audit”* means the computerized quarterly cross match of benefits received by Iowa claimants and wages reported by employers to the state of Iowa.

*“Wages”* means the same as defined in Iowa Code section 96.1A(40).

*“Week”* means the same as defined in 871—subrule 24.1(135).

This rule is intended to implement Iowa Code chapter 96.

**871—25.2(96) Policy of the investigation and recovery unit.** The policy of the investigation and recovery unit is to:

**25.2(1)** Take aggressive action to prevent, detect, and deter benefits paid through error and to investigate and penalize fraud;

**25.2(2)** Maximize the recovery of benefit overpayments; and

**25.2(3)** Seek prosecution when the unit believes a person has committed a serious violation of the employment security law.

This rule is intended to implement Iowa Code sections 96.11(1), 96.16, and 96.17(2).

**871—25.3(96) Functions of the investigation and recovery unit.** The function of the investigation and recovery unit is to:

**25.3(1)** Investigate and make determinations on issues within the unit’s scope that are referred by the general public, employing units, agency personnel, other agencies, or anonymous sources. The unit examines allegations of the following type:

a. Failure to report earnings while receiving benefits.

b. Collusion between claimant and employer, or between two or more claimants, in fraudulently obtaining or attempting to obtain benefits.

c. Utilizing the identity of another to fraudulently obtain or attempt to obtain benefits.

d. Employing units fraudulently attempting to evade unemployment insurance coverage and tax assessment. The unit determines the resulting status of claimants employed by these entities.

e. Claims involving contrived or fictitious employment (e.g., family relationships).

*f.* Cases of possible concurrency in claiming workers' compensation, railroad retirement, or social security while receiving benefits. Also concurrency of claiming benefits outside of Iowa while receiving unemployment insurance benefits. Possible welfare concurrency will be referred to the appropriate agency.

*g.* Issues of availability, capability, voluntary leaving of employment, refusal of employment, misconduct, intervening employment, and industrial controversy where the facts are complex and field work is necessary to establish proper findings.

*h.* Validity of alien registration numbers through a cross-check with U.S. Citizenship and Immigration Services. If an alien has falsely claimed to be a U.S. citizen or used a false alien registration card in order to receive benefits, prosecution cases will be prepared when appropriate. "Alien" means the same as described in rule 871—24.60(96).

**25.3(2)** Collect refunds of overpayments resulting from determinations of claimant fraud.

**25.3(3)** Prepare all cases for prosecution.

*a.* Submit cases to the county attorneys.

*b.* Assist county attorneys and others by presenting evidence and giving testimony in court proceedings.

**25.3(4)** Formulate methods and procedures to prevent and detect all types of fraud by claimants, employing units, and unemployment insurance services personnel.

**25.3(5)** Provide liaison with local, state, and federal law enforcement agencies.

**25.3(6)** Testify and produce evidence before hearing officers and employment appeal board hearings regarding fraudulent activities.

**25.3(7)** Conduct internal audits as established by federal guidelines.

This rule is intended to implement Iowa Code sections 96.11(1), 96.16, and 96.17(2).

#### **871—25.4(96) Allegation of claimant fraud.**

**25.4(1)** If the party alleging fraud supplies sufficient information to proceed with an investigation, the information is to be forwarded to the investigation and recovery unit, which will advise the alleging party that the unit will fully investigate. The unit is to provide its findings to the alleging party if the investigation may impact the alleging party's employer account of claim for benefits.

**25.4(2)** If the results of the investigation indicate that a disqualification would have resulted for the period benefits were paid, the unit is to schedule an informal fact-finding interview to allow testimony by the parties. The unit may recommend separate fact-finding interviews if necessary.

This rule is intended to implement Iowa Code sections 96.16 and 96.11(10).

#### **871—25.5(96) Allegation of employing unit fraud.**

**25.5(1)** If the party alleging fraud supplies sufficient information to proceed with an investigation, the information is to be forwarded to the investigations and recovery unit. The unit will advise the alleging party that the unit will fully investigate. The unit may seek the assistance of the tax unit staff. The unit is to provide its findings to the alleging party if the investigation may impact the alleging party's employer account of claim for benefits.

**25.5(2)** If the results of the investigation indicate that misrepresentation occurred on the part of the employer, the unit is to schedule an informal fact-finding interview to allow testimony by the parties.

This rule is intended to implement Iowa Code sections 96.16 and 96.11(10).

### **871—25.6(96) Investigation of fraud (procedure).**

**25.6(1)** Upon receipt of an allegation of fraudulent activity, the investigation and recovery unit will prepare an investigation file containing all necessary documents, assign an investigation number, and assign the case to an investigator. All investigation files will remain confidential.

**25.6(2)** The investigator will make a thorough review of all documents contained within the file and determine what issues need to be investigated. Documented evidence will be obtained from any necessary source.

**25.6(3)** An investigator has the authority to request all necessary information in the investigation of any error or potential fraudulent activity committed by a claimant, employing unit, or other party. Likewise, testimony may be taken from any person who has relevant information or records. Any person, when requested by an investigator to produce records or give testimony, must be available to give testimony to the department or to produce records within a reasonable time. If any person does not comply with the investigator's request for the person to give testimony to the department or produce records, a subpoena may be issued summoning the person to appear before the investigator to give testimony or present the records.

If the investigator determines that any request for the voluntary production of pertinent records might endanger the existence of such records, the investigation and recovery unit may immediately issue a subpoena duces tecum to ensure the production of such records.

**25.6(4)** The investigation and recovery unit may seek the assistance of field auditors.

**25.6(5)** The investigator may surveil any relevant individual or location.

**25.6(6)** Upon completion of the investigation, a determination shall be made as to whether fraudulent activity has occurred. If there is fraudulent activity, appropriate corrective action shall be initiated. The unit is to provide its findings to the alleging party if the investigation may impact the alleging party's employer account of claim for benefits. The case may be prepared for prosecution if warranted.

**25.6(7)** A detailed report will be entered in the case management system upon completion.

This rule is intended to implement Iowa Code sections 96.16, 96.11(6) and 96.11(7).

### **871—25.7(96) Determination of overpayment by reason of claimant's fault or fraud.**

**25.7(1)** The investigation and recovery unit may determine that a claimant has received benefits to which the claimant was not entitled due to the claimant's own fault, the employer's fault, the agency's fault, or fraud as provided in Iowa Code section 96.16.

**25.7(2)** A dated notice of such determination shall promptly be mailed to the claimant at the claimant's last-known address. Such notice shall advise the claimant of the reason for and total amount of the overpayment as well as the benefit weeks involved. The determination is final unless the claimant, within ten calendar days of the date shown on the notification, files a written request for review or appeal.

**25.7(3)** Upon receiving a written request for review, the investigation and recovery unit, based upon such facts as it has or may acquire, may affirm, modify, or reverse the prior decision or refer the matter to an administrative law judge. The claimant shall be promptly notified of such decision or referral. Unless the claimant files an appeal within ten calendar days after the date of mailing, such decision shall be final.

**25.7(4)** The claimant may directly appeal the decision, without request for review, to the department of inspections, appeals, and licensing.

**25.7(5)** Claimants affected by determinations made in accordance with this rule have the same rights to further appeal as are provided in Iowa Code section 96.6.

**25.7(6)** When a determination has become final, the benefits shall be recovered.

*a.* Recovery of overpayments due to misrepresentation or fraud may also include the filing of a notice of lien or other civil action. Upon finalization of the determination of overpayment by reason of a claimant's fault or fraud, interest shall accrue at a rate of 1/30th of 1 percent per day until the overpayment is paid in full.

*b.* The department shall mail a first statement of overpayment to the claimant's last-known address. This statement will request full repayment to the department.

*c.* If a claimant fails to respond to the first statement of overpayment, a demand letter shall be sent 30 days later. The demand letter notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement. Monthly amounts based on the minimum repayment agreement schedule below will be printed on the demand letter. The first repayment is expected ten days from the date of the demand letter and the additional repayments every 30 days thereafter until the debt is paid in full. The following minimum repayment agreement is acceptable to the department, though the department reserves the right to accept or reject any proposed repayment agreement.

Amount of Original Overpayment	Minimum Monthly Payments	Number of Months Required to Liquidate the Overpayment
Under \$199	\$ 25	1 to 8
\$200 to \$399	\$ 50	4 to 8
\$400 to \$599	\$ 75	5 to 8
\$600 to \$799	\$ 90	6 to 9
\$800 to \$999	\$ 100	8 to 10
\$1,000 to \$1,499	\$ 150	6 to 10
\$1,500 to \$1,999	\$ 200	7 to 10
\$2,000 to \$2,999	\$ 250	8 to 12
\$3,000 and over	\$ 300	10 to —

*d.* After sending the demand letter, the department may proceed with any appropriate lien or civil action to collect the debt, which would include but not be limited to a judgment in a court having jurisdiction over the matter. The department may pursue the same type of action where a claimant defaults on a repayment agreement.

*e.* If the department receives a cash repayment of an overpayment, the department shall issue a receipt and mail it to the claimant's last-known address. If the department receives a repayment that is not identified by a social security number, name, or other means of identification, the department will retain the money until such time as a positive identification can be made and proper credit given to the claimant.

*f.* An overpayment to the claimant will cause the employer to be relieved of charges except when the overpayment is a result of payment of a back pay award.

*g.* An underpayment of \$5 or less will not be set up and paid to an individual unless the individual requests the payment in writing.

This rule is intended to implement Iowa Code sections 96.1A(37), 96.3(3), 96.3(7), 96.4(3), 96.5(1), 96.5(3), 96.6(1), 96.8(5), 96.11(1), and 96.16.

**871—25.8(96) Recovery of benefit overpayments when benefits are erroneously received.**

**25.8(1) *Good faith overpayment.*** The department shall recover good faith overpayments. The department shall issue the overpayment decision to the claimant's last-known address or through the claimant's preferred contact method. Once the overpayment amount has been established, an overpayment schedule will be established to leave an audit trail even if the claimant fully repays the overpayment in one payment.

*a.* The department shall mail a first statement of overpayment to the claimant's last-known address. This statement will request full repayment.

*b.* If a claimant fails to respond to the first statement of overpayment, a demand letter shall be sent 30 days later notifying the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement.

*c.* If an individual has acted in good faith and is without fault in claiming federal unemployment compensation under Unemployment Compensation Federal Employees (UCFE), Unemployment Compensation Ex-servicemembers (UCX), Trade Readjustment Allowances (TRA), or Disaster Unemployment Assistance (DUA), and it is subsequently determined that the individual is not entitled to the benefits, the department has the right to recover the benefits in accordance with the procedure outlined in subrule 25.8(1). Any federal unemployment compensation overpayments recovered will be credited to the appropriate account of the United States. Three years after the federal unemployment compensation overpayment, if the department concludes that continued collection efforts would result in diminishing returns, then the unrecovered amount will be removed from the department accounting records. An administrative record will be maintained for possible collection through offset or other appropriate method. If no collection action has taken place during the three years after the department has removed the overpayment from its accounting records, then the overpayment will be disposed of.

Any overpayment of TRA, Trade Adjustment Assistance, or DUA will be offset at the rate of 50 percent of the benefit amount otherwise payable to the individual for unemployment insurance, extended benefits, or any other federal unemployment compensation program.

**25.8(2) *Misrepresentation.***

*a.* The department may attempt to collect the overpayment by filing a lien on the claimant in the manner provided in Iowa Code section 96.14(3).

*b.* The employer's account may be relieved of overpayments caused by fraud or misrepresentation.

*c.* If it is found that an individual has received benefits through misrepresentation and has been assessed with an overpayment under UCFE or UCX, and criminal charges are not involved, the department will limit deduction from future benefits to a two-year period following the original determination of overpayment. If an individual is convicted for fraud, the department shall have the right to recover any resulting overpayment in accordance with the procedure outlined in subrule 25.8(2).

This rule is intended to implement Iowa Code sections 96.7(2), 96.11(1), 96.11(11), 96.11(13), 96.14(3), 96.16, 96.20, and 96.29.

**871—25.9(96) Administrative penalties.**

**25.9(1)** An administrative penalty may be imposed on a claimant as per Iowa Code section 96.5(8).

**25.9(2) Penalties.**

*a.* Any penalties imposed by this rule shall be in addition to those imposed by Iowa Code section 96.16.

*b.* The general guide for disqualifications for deliberate falsification for the purpose of obtaining or increasing unemployment insurance benefits is listed below. It is intended to be used as a guide only and is not a substitute for the personal subjective judgment of the investigator. The administrative penalty recommended for falsification ranges from three weeks through the end of the benefit year. The department may also consider the filing of criminal charges whenever an administrative penalty is imposed against a claimant. If the same offense is repeated, loss of benefits through the end of the benefit year will result.

*c.* The department shall issue a determination that sets forth the specific penalty being applied. The investigator will determine the degree and severity of the penalty based upon the nature of the offense and the facts.

**25.9(3)** Sources of information concerning the application of an administrative penalty shall be the same as those pertaining to fraud and overpayment, namely:

*a.* Comparative analysis of employer wage reports and benefit payments.

*b.* Information obtained by a local office.

*c.* Tips and leads from other sources.

*d.* Cross-checking of information regarding vital statistics from the department of health and human services.

*e.* Review of claims using social security numbers not issued by the social security administration.

*f.* Cross-checking of information from the Iowa centralized employer registry.

*g.* Cross-checking of information with the National Directory of New Hires.

*h.* Cross-checking of information on incarcerated individuals from the department of corrections.

*i.* Cross-checking of information with fraud detection tools identified by the department.

**25.9(4)** The claimant shall be notified of the possible application of the administrative penalty by Form 65-5315, Notice of Unemployment Insurance Fact-Finding Interview, in the same manner a claimant is notified of a possible overpayment.

**25.9(5)** The claimant shall be afforded an opportunity to give testimony, either refuting or affirming the allegation of intent to defraud and may be represented by legal counsel.

**25.9(6)** In the event any claimant is aggrieved by the representative's determination assessing an administrative penalty or by the severity of the penalty assessed, such claimant shall have the same protest and appeal rights as provided for all other determinations.

**25.9(7)** A criminal conviction of a claimant for fraud or a court order requiring restitution for the amount of the overpayment shall not preclude the investigation and recovery unit from also imposing an administrative penalty denying further benefits to the claimant for a period of time not to exceed the remainder of said claimant's benefit year and including the week in which such determination is made by the investigation and recovery unit.

This rule is intended to implement Iowa Code sections 96.5(8), 96.11(1), and 96.11(10).

**871—25.10(96) Prosecution on overpayments.**

**25.10(1)** When, after an investigation, the department determines an overpayment occurs due to misrepresentation or fraud, the case shall be given a thorough and detailed review to determine if it may be referred to a county attorney or the attorney general for prosecution for fraud.



**25.10(2)** Restitution or the establishment of a repayment plan of an amount overpaid to a claimant due to fraudulent misrepresentation or failure to disclose a material fact does not preclude the investigation and recovery unit from instituting criminal proceedings against the claimant.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.16(2).

**871—25.11(96) Prosecution for fraud (procedure).**

**25.11(1)** If prosecution is warranted, supportive documentation and evidence will be requested and thoroughly reviewed by the investigator.

**25.11(2)** A handwriting sample may be taken from claimant and submitted for investigation.

**25.11(3)** A summary of the case will be prepared and the case taken to the county attorney for filing of criminal charges.

**25.11(4)** Upon request by the county attorney, the investigator may make recommendations regarding plea bargaining, dismissals, and sentencing and participate in the mediation process.

**25.11(5)** Investigators may testify and produce evidence at district court and grand jury proceedings.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.16(2).

**871—25.12(96) Wage verification procedure.**

**25.12(1)** Each quarter, wage verification documents are mailed to selected employers requesting wage information on specific claimants with regard to benefit payments.

**25.12(2)** The completed documents are sent to the investigation and recovery unit for review. Potential cases of conflict will result in an investigation assignment. Claimants will be notified by means of Form 65-5332, Audit Notice of Potential Overpayment, and given an opportunity to respond. If it is determined that an overpayment has occurred, the investigator will prepare Form 68-0031, Decision Overpayment Worksheet, on which the amount, weeks, type, and reason for the overpayment are identified. Claimants are notified of the determination on Form 65-5352, Unemployment Insurance Decision.

**25.12(3)** An employer may choose to participate in the automated wage verification procedure by following the electronic submission guidelines.

**25.12(4)** An employer that fails to respond to a request for wage information pertaining to specific claimant(s) will be charged a fee of \$25 per claimant.

This rule is intended to implement Iowa Code section 96.11(1).

**871—25.13(96) Duplicate benefit warrants.**

**25.13(1)** *Undelivered warrant.* Any warrant issued in payment of benefits that is returned undelivered to the department will be canceled 90 days after the original issue date unless it can be mailed to the correct address.

**25.13(2)** *Canceled warrant.* Warrants are canceled as per Iowa Code section 96.11(7). Any individual who has an outdated warrant may contact the department for assistance.

**25.13(3)** *Lost and uncashed warrant.*

*a.* The payee of a warrant issued in payment of benefits that is lost, stolen, mutilated, destroyed, or canceled under conditions cited in subrules 25.13(1) and 25.13(2) may contact the department for assistance.

*b.* The department will ascertain whether the warrant has been cashed and take the following action:

(1) If the warrant has been cashed, the procedure in subrule 25.13(4) shall be followed.

(2) If the warrant has not been cashed, the department shall issue a stop payment order on the warrant and issue Form 68-0163, Affidavit and Agreement for Issuance of Duplicate Warrant, to the individual. The completed affidavit is a sworn statement that the original warrant was not received and that the warrant will be surrendered voluntarily if received by the claimant. The claimant should be warned that the warrant cannot be cashed after the stop payment order is in effect.

*c.* The affidavit shall be personally prepared in duplicate by the claimant, and the claimant's signature on the affidavit must be notarized. The affidavit shall be transmitted in duplicate to the department.

*d.* The department will then request that the director of the department of administrative services issue a duplicate warrant, which the department will mail to the claimant.

*e.* If the claimant should cash the original warrant after the stop payment order is in place, an overpayment shall be set up and the department may refer the matter for criminal prosecution.

*f.* If the claimant should find the original warrant after the duplicate warrant has been issued, the claimant will send the original warrant to the department.

**25.13(4) Forged warrants.**

*a.* In the event that the original warrant has been endorsed by and paid to someone allegedly not authorized to receive payment, the payee whose endorsement was forged will be given the opportunity to examine the endorsement on the copy of the warrant.

*b.* If the payee determines that the endorsement is a forgery, the following action shall be taken:

(1) The claimant will prepare Form 68-0320, Affidavit as to Forged Endorsement, in duplicate, and the claimant's signature must be notarized.

(2) The claimant is required to file a police report with the local law enforcement agency and return a copy of the police report to the department.

(3) The claimant will send a copy of the original warrant, the notarized affidavit, and a copy of the police report to the department for review.

*c.* The investigation and recovery bureau will make a handwriting analysis to determine if the warrant was forged. If the handwriting is determined to be a forgery, a duplicate warrant will be issued to the payee.

**25.13(5) Employer account credit.** At the time of cancellation of any outstanding benefit warrant, the employer account shall be credited with the amount of the warrant so canceled. The reissuance of any benefit warrant canceled in subrule 25.13(1) or 25.13(2) shall be charged to the employer account.

This rule is intended to implement Iowa Code sections 96.9(7) and 96.11(1).

**871—25.14(96) Payments of benefits due a deceased person.**

**25.14(1)** An eligible week for a deceased claimant will be one where the week is claimed by the individual prior to death. If benefits are due a deceased person, the benefits are paid to the person or persons who have been issued letters testamentary or of administration pursuant to an application filed within 30 days after the claimant's death.

**25.14(2)** In the event that no application for letters testamentary or of administration has been filed within 30 days after the claimant's death, the benefits that were due will be paid to the decedent's surviving spouse, if any; or, if no spouse survives the decedent and the decedent is survived by an unmarried minor child or children, the benefits will, at the discretion of the department, be paid:

- a.* To the guardian or guardians of unmarried minor child or children for their benefit; or
- b.* To the person or institution who or which the department finds assumed the obligation of providing support for or maintenance of such minor child or children; or
- c.* To any person who the department finds has furnished to such child or children necessaries of a value equaling or exceeding the amount of benefits; or
- d.* To any person who the department finds has paid expenses of the claimant's last illness or burial expenses in an amount equaling or exceeding the amount of benefits.

**25.14(3)** The director of the department of administrative services will void any unredeemed warrant or warrants payable to a deceased person. Once the warrant is surrendered, the director of the department of administrative services will issue a new warrant or warrants bearing the same dates and numbers and made payable to the entitled person or persons under the provisions of this rule. The issuance of the new warrant or warrants fully discharges the department of its obligation with respect to the claims covered thereby and no other person may claim or assert any right to them.

**25.14(4)** Any person claiming entitlement to the payment of benefits under this regulation shall present the claim in writing within 60 days after the death of the claimant and shall offer proof thereof in such form as the department may require; however, the department may, upon good cause shown, extend the time for presentation of a claim. In the event no timely claim is made for the benefit payment, the benefits will not be paid but will remain in the unemployment compensation fund.

This rule is intended to implement Iowa Code sections 96.9(3), 96.9(7), and 96.11(1).

**871—25.15(96) Back pay—benefit recovery and charging.**

**25.15(1)** Recovery and charging of back pay is governed by Iowa Code section 96.3(8).

*a.* The department shall first attempt to reach an agreement with the individual and the employer.

*b.* The burden of proof is on the employer to establish the dollar amount of the back pay award that is remuneration for lost wages and the specific time period to which the remuneration applies.

**25.15(2)** If the department reaches an agreement with the individual and the employer as per Iowa Code section 96.3(8), then the employer's account shall be relieved of benefit charges in an amount equal to the amount remitted by the employer to the department. If the department fails to reach an agreement, then the benefit charges are not relieved until the benefits paid to the individual are recovered.

This rule is intended to implement Iowa Code section 96.3(8).

**871—25.16(96) State payment offset.** An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 is subject to an offset against the individual's payment from the state to recover all or a part of the overpayment and to reimburse the department of revenue for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

**25.16(1)** The department will provide the department of revenue with the claimant's name and social security number.

**25.16(2)** The department of revenue will process the offset according to Iowa Code section 421.65.

**25.16(3)** In the event that the amount of the offset exceeds the remaining overpayment, the department will issue to the individual a payment equal to the amount of the excess.

This rule is intended to implement Iowa Code section 96.11.

**871—25.17(96) Federal payment offset.** Pursuant to Section 303(m) of the federal Social Security Act (42 U.S.C. §503) and 26 U.S.C. §6402(f), the department will utilize the treasury offset program in order to collect covered unemployment compensation.

This rule is intended to implement Iowa Code section 96.3(7).