

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**MANUEL GUERRERO**  
Claimant

**APPEAL NO. 08O-UI-08456-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 06/15/08 R: 04  
Claimant: Appellant (2)**

Section 96.7-3 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Manuel Guerrero (claimant) appealed a representative's July 25, 2008 decision (reference 03) that concluded he had been overpaid \$347.00 in benefits he received for the week ending June 21 because he did not report receiving any vacation pay for this week. A hearing was initially held on August 21, but the claimant was not available for the hearing. An administrative law judge issued a decision on August 21 that affirmed the representative's decision. The claimant appealed this decision to the Employment Appeal Board. The Employment Appeal Board remanded this matter to the Appeals Section for a new hearing.

After hearing notices were again mailed to the parties' last-known addresses of record, a telephone hearing was held on October 7, 2008. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Has the claimant been overpaid \$347.00 in benefits for the week ending June 21, 2008?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of June 15, 2008. He filed a claim for benefits for the week ending June 21, 2008. The claimant did not report receiving any vacation pay for this week. The claimant received \$347.00 in benefits for this week.

The claimant appealed a representative's reference 02 decision that held him ineligible to receive benefits for the weeks ending June 21 and 28 because he received vacation pay these weeks. As the result of an appeal hearing, the decision in reference 02 was modified to hold the claimant did not receive any vacation pay for the week ending June 21. Instead, the vacation pay he received is attributed to the weeks ending June 28 and July 5, 2008. The claimant did not receive any vacation pay or wages for the week ending June 21. See decision for appeal 08O-UI-08455-DWT.

**REASONING AND CONCLUSIONS OF LAW:**

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. Based on the decision for appeal 08O-UI-08455-DWT, the claimant is eligible to receive benefits for the week ending June 21, 2008. He has not been overpaid \$347.00 in benefits he received for this week.

**DECISION:**

The representative's July 25, 2008 decision (reference 03) is reversed. The claimant was legally entitled to receive benefits for the week ending June 21, 2008. He has not been overpaid \$347.00 in benefits he received for this week.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw