

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRANDY L MASTELLER
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 19A-UI-10213-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/20/19
Claimant: Appellant (4)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant appealed the December 11, 2019, (reference 03) decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$3,024.00 for the six-week period ending November 30, 2019, as a result of a disqualification decision.

A telephone hearing was held on January 21, 2020. Brandy Mastellar (claimant/appellant) participated personally and with witness Jason Mastellar, her husband.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUE:

Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The overpayment issue in this case was created by a disqualification decision that has now been affirmed. See 19A-UI-10212-AD-T.

The unemployment insurance system shows claimant has received weekly benefits in the amount of \$504.00 for a total of five weeks, from the benefit week ending October 26, 2019, through the benefit week ending November 30, 2019, with the exception of the benefit week ending November 23, 2019, when claimant reported wages and received benefits in the amount of \$501.00. The total amount of benefits paid to date is \$3,021.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the December 11, 2019 (reference 03) unemployment insurance decision that determined claimant was overpaid benefits is MODIFIED in favor of the appellant.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The unemployment insurance system shows claimant has received weekly benefits in the amount of \$504.00 for a total of five weeks, from the benefit week ending October 26, 2019, through the benefit week ending November 30, 2019, with the exception of the benefit week ending November 23, 2019, when claimant reported wages and received benefits in the amount of \$501.00. The total amount of benefits paid to date is \$3,021.00.

Because the administrative law judge affirmed the disqualification decision in 19A-UI-10212-AD-T, claimant has been overpaid benefits. However, claimant has been overpaid benefits in the amount of \$3,021.00 rather than \$3,024.00. Benefits shall be recovered and the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund.

The administrative law judge is sympathetic to claimant. Claimant acted in good faith in filing her claims for benefits and was not overpaid due to any fault of her own. However, even in that situation, the law requires that benefits be recovered. This is a harsh result for claimant, particularly given the impairments she is battling. However, this administrative law judge has no authority to forgive the amount overpaid to claimant or otherwise order that it not be recovered.

DECISION:

The December 11, 2019 (reference 03) unemployment insurance decision is MODIFIED in favor of the appellant. Claimant has been overpaid benefits in the amount of \$3,021.00 rather than \$3,024.00. Benefits shall be recovered. The charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund.

Andrew B. Duffelmeyer
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Decision Dated and Mailed

abd/rvs