

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

<b>JOANN S DAVIS</b> Claimant	68-0157 (9-06) - 3091078 - EI
<b>IOWA WORKFORCE DEVELOPMENT DEPARTMENT BENEFIT PAYMENT CONTROL</b>	<b>APPEAL NO. 12A-UI-14246-ST</b>  <b>ADMINISTRATIVE LAW JUDGE DECISION</b>
	<b>OC: 01/01/12</b> <b>Claimant: Appellant (2)</b>

Section 96.3-7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated November 29, 2012, reference 06, that held she is overpaid benefits \$6,405.51 for the 31-weeks ending August 4, 2012 due to a department re-determination dated August 23, 2012. A hearing was scheduled for December 26, 2012.

**ISSUE:**

The issue is whether the claimant is overpaid benefits.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds that: The department issued a decision dated August 23, 2012 that disqualified the claimant and caused her to be overpaid \$6,405.51. The decision has been reversed (Appeal No. 12A-UI-14245-ST).

No hearing was held though claimant had called in as this matter was handled administratively in her favor.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.3-7, as amended in 2008, provides:

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) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The administrative law judge concludes that the claimant is not overpaid benefits \$6,405.51 due to a department decision that has been reversed. The department issued a decision on August 23, 2012 and that decision has been reversed in Appeal No. 12A-UI-14245-ST.

**DECISION:**

The decision of the representative dated November 29, 2012, reference 06, is reversed. The claimant is not overpaid benefits \$6,405.51.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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