

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JENNIFER A MCCARTHY
Claimant

APPEAL NO: 18A-UI-05203-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/01/18
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 26, 2018, reference 04, decision that determined she was overpaid benefits in the amount of \$398.00 for the two weeks ending April 14, 2018. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 23, 2018. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance 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 modified in favor of the claimant. The claimant was not able and available for work the two weeks ending April 14, 2018, but is eligible after that date.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$398.00 pursuant to Iowa Code section 96.3-7 even though the disqualification decision that created the overpayment decision has now been modified in favor of the claimant.

DECISION:

The April 26, 2018, reference 04, decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$398.00 for the two weeks ending April 14, 2018.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn