

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WESLEY E BARR
Claimant

APPEAL NO. 07A-UI-09516-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/26/07 R: 02
Claimant: Appellant (2)**

Section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

Wesley Barr filed a timely appeal from the October 5, 2007, reference 02, decision that he had been overpaid \$1,572.00 due to an October 4 decision that he was not able to work and available for work. After due notice was issued, a hearing was held on October 24, 2007. Mr. Barr participated in the hearing and was represented by Attorney Steven Jayne. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 07A-UI-09515-JTT and the administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether the claimant was overpaid benefits of \$1,572.00 for four weeks between August 26, 2007 and September 22, 2007 as a result of the October 4, 2007 decision that determined he was not able to work and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Wesley Barr established a claim for unemployment insurance benefits that was effective August 26, 2007 and received benefits of \$1,572.00 for four weeks between August 26, 2007 and September 22, 2007. On October 4, 2007, an Agency representative entered a reference 01 decision that denied benefits and concluded that Mr. Barr was not able to work and available for work. The overpayment issue in this case was created by the disqualification decision. The reference 01 decision has been reversed on appeal. See Appeal Number 07A-UI-09515-JTT.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because the decision that prompted the overpayment decision has been reversed on appeal, the administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$1,572.00. See Appeal Number 07A-UI-09515-JTT.

Because Appeal Number 07A-UI-09515-JTT has been remanded to a claims representative so that issues relating to the separation from employment and worker's compensation benefits can be addressed, it is possible that a new overpayment decision pertaining to the same weeks at issue herein may follow from those further proceedings.

DECISION:

The October 5, 2007, reference 02, overpayment decision is reversed. The claimant has not been overpaid benefits of \$1,572.00 for four weeks between August 26, 2007 and September 22, 2007.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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