

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARMAINE TINSLEY

Claimant

APPEAL NO: 13A-UI-06404-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/11/11

Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits
Iowa Code § 96.6(2) – Timeliness of Appeal

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 17, 2013 determination (reference 12) that held her overpaid \$1,356.00 in benefits she received between December 11, 2011, and January 21, 2012. The overpayment occurred as the result of a January 27, 2012 determination (reference 05) that was affirmed by an administrative law judge on March 8, 2012. See decision for appeal 12A-UI-01121-S2T.

The claimant participated in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant has been overpaid \$1,356.00 in benefits.

ISSUES:

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

Has the claimant been overpaid benefits she received between December 11, 2011, and January 21, 2012?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of December 11, 2011. She filed claims for the weeks ending December 17, 2011, through January 21, 2012. She received her maximum weekly benefit amount of \$226.00 for each of these weeks.

The claimant appealed a representative's January 27, 2012 determination (reference 05) that disqualified her from receiving benefits as of December 11, 2011, because she had been discharged from APAC Customer Services of Iowa for disqualifying reasons. The claimant appealed this determination.

When the hearing was held before an administrative law judge, the claimant participated at part of the hearing. Her phone became disconnected before she testified. The administrative law judge did not receive a call from the claimant during the hearing to reconnect her to the hearing. On March 8, 2012, the administrative law judge affirmed the January 27, 2012 determination and held the claimant was disqualified from receiving benefits as of December 11, 2011. The claimant did not appeal the decision for appeal 12A-UI-01121-S2T.

On May 17, 2013, a determination was mailed to the claimant informing her she had been overpaid \$1,356.00 in benefits she received for the weeks ending December 17, 2011, through January 21, 2012. The determination also stated an appeal had to be filed or postmarked on or before May 27, 2013. The claimant mailed her appeal letter on May 28, 2013. The appeal letter was postmarked on May 29, 2013.

REASONING AND CONCLUSIONS OF LAW:

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6(2). The Iowa Supreme Court has ruled that appeals must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the deadline to file an appeal was May 28. May 27 was Memorial Day, a legal holiday, so the deadline to appeal was automatically extended to May 28, 2013. The claimant mailed her appeal letter on May 28. Therefore, she filed a timely appeal. The Appeals Section has jurisdiction to address the merits of her appeal.

If an individual receives benefits she 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 January 27, 2012 determination that was affirmed by the decision for appeal 12A-UI-01121-S2T, the claimant is not legally entitled to receive benefits for the weeks ending December 17, 2011, through January 21, 2012. She has been overpaid a total of \$1,356.00 in benefits she received for these weeks.

Even though the claimant is not at fault in receiving the overpayment, she is still legally responsible for paying back this amount to the Department. The administrative records indicate that on June 26, 2013, the Department used benefits the claimant was entitled to receive for the weeks ending March 2 through 30, 2013, to offset the overpayment. As a result of the June 26, 2013 offset, the claimant does not owe any money to the Department.

DECISION:

The representative's May 17, 2013 determination (reference 12) is affirmed. The claimant filed a timely appeal. The Appeals Section has legal jurisdiction to address the merits of her appeal. The claimant is not legally entitled to receive benefits for the weeks ending December 17, 2011, through January 21, 2012. She has been overpaid \$1,356.00 in benefits she received for these weeks. The claimant is not at fault in receiving the overpayment. As of June 26, 2013, the claimant does not owe the Department any money because benefits she was entitled to receive for the weeks ending March 2 through 30, 2013, were used to offset the \$1,356.00 overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css