

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DOTTIE L CHRISTOPHE**  
Claimant

**APPEAL 20A-UI-09382-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/10/19  
Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the July 22, 2020, (reference 05) unemployment insurance decision that held claimant was overpaid \$9,777.00 in unemployment benefits. After due notice was issued, a hearing was scheduled to be held on September 23, 2020. Because the issue appealed was modified administratively prior to the hearing in the appellant's favor (see the reference 06 unemployment insurance decision), no testimony was necessary and no hearing was held.

**ISSUE:**

Should the unemployment insurance decision be affirmed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been amended in favor of the appellant by the reference 06 unemployment insurance decision.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the unemployment insurance decision should be reversed.

Iowa Code section 96.3(7)a, b, 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) (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 employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

(b) 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.

(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.

Since the decision appealed has been amended in favor of the appellant, the original unemployment insurance decision bearing (reference 05) is reversed.

**DECISION:**

The July 22, 2020, (reference 05) unemployment insurance decision is reversed as a result of the (reference 06) decision that modified and reduced the overpayment amount. The (reference 05) issue has been resolved, and the hearing is therefore canceled. The (reference 06) hearing scheduled for September 23, 2020 at 1:35 p.m. shall proceed as scheduled.



---

Duane L. Golden  
Administrative Law Judge

---

September 16, 2020  
Decision Dated and Mailed

dlg/sam