

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 12IWDUI593

OC: 5/13/12

Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**NICHOLAS D. BEKERIS
4524 SUGAR PINE DR NE
CEDAR RAPIDS, IA 52402**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS & RECOVERY
430 EAST GRAND AVE.
DES MOINES, IA 50309**

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

JOE WALSH, IWD

(Administrative Law Judge)

December 27, 2012

(Decision Dated & Mailed)

STATEMENT OF THE CASE

The Claimant, Nicholas D. Bekeris, filed an appeal from a decision issued by Iowa Workforce Development (IWD) dated October 17, 2012, reference 09. In this decision, IWD determined that Mr. Bekeris was overpaid unemployment insurance benefits in the amount of \$171 for one week in June of 2011.

The case was transmitted from IWD to the Department of Inspections and Appeals on or about October 16, 2012 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on November 1, 2012. On December 26, 2012, a telephone appeal hearing was held before Administrative Law Judge Carol J. Greta. Nicholas Bekeris appeared personally and testified on his own behalf. Investigations supervisor Corey Watt represented IWD and presented testimony. Investigator Jane Connor had earlier submitted exhibits for IWD; these were admitted into the record as evidence. Mr. Bekeris admits that the exhibits show that he was overpaid \$171 for the week of June 12, 2011.

ISSUE

Whether IWD correctly determined that the Claimant was overpaid unemployment benefits and, if so, whether the overpayment was correctly calculated. IWD is not claiming that the overpayment was caused by misrepresentation on the part of the Claimant.

FINDINGS OF FACT

The facts are undisputed. Mr. Bekeris admits that he was overpaid unemployment insurance benefits for the week of June 12, 2011, and he admits that the calculated amount of \$171 is correct. His argument is that IWD waited too long to demand repayment from him. (Bekeris Testimony)

Mr. Watt testified that the delay is in part due to the fact that Mr. Bekeris did not respond to requests from IWD to him for information. Mr. Watt also pointed out that the overpayment has been repaid through interception by IWD of subsequent unemployment insurance benefits. (Watt Testimony) Upon hearing this, Mr. Bekeris admitted that his appeal is moot. (Bekeris Testimony)

REASONING AND CONCLUSIONS OF LAW

Iowa Code § 96.3(7) requires IWD to recover benefits paid to an individual in error, regardless of the reason of the overpayment. If IWD believes the overpayment to have resulted because of fraud or misrepresentation on the part of the overpaid individual, IWD has 36 months to seek further penalties. Iowa Code § 96.5(8). However, collection of an overpayment does not appear to have a limitation of actions. Iowa Code § 96.11(13) states as follows:

Notwithstanding any other provision of this chapter, the department shall review all outstanding overpayments of benefit payments annually. The department may determine as uncollectible and purge from its records any remaining unpaid balances of outstanding overpayments which are ten years or older from the date of the overpayment decision.

This statute indicates that IWD may collect or attempt to collect overpayments older than 10 years. Certainly here, an overpayment of less than two years is not beyond the legal authority of IWD to collect.

DECISION

Iowa Workforce Development's decision dated October 17, 2012, reference 09, is AFFIRMED. Inasmuch as the amount, which was calculated correctly, has been repaid, there is nothing further for IWD to do in this matter.