KYLE W DANKOF Claimant	**APPEAL 17A-UI-03544-DL-T** **ADMINISTRATIVE LAW JUDGE DECISION**
IOWA WORKFORCE DEVELOPMENT DEPARTMENT	
	OC: 11/27/16 **Claimant: Appellant (4)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 17, 2016 [*sic*], (reference 05), unemployment insurance decision that concluded claimant was overpaid unemployment insurance benefits in the amount of $2235.00 for the five weeks-ending December 31, 2016, as a result of an ineligibility decision related to the deduction of pension payments. After due notice was issued, a telephone conference hearing was scheduled to be held on April 26, 2017. Claimant registered for the hearing but his appeal letter, information in the administrative record and ALJ decisions were sufficient to resolve the issue and no hearing was held.

ISSUE:

Has the claimant been overpaid unemployment insurance benefits for the period in question?

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 partial ineligibility appeal decisions in 17A-UI-00349-DL-T and 17A-UI-00350-DL-T, that held claimant is eligible for partial benefits of $315.00 per week, provided he is otherwise eligible.

While attempting to get this matter resolved, IWD personnel erroneously told claimant not to file continued weekly claims during the eight-weeks ending February 25, 2017.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 not been overpaid unemployment insurance benefits in the amount of $2235.00 as stated by the representative's decision. However, claimant is overpaid $660.00 pursuant to Iowa Code section 96.3(7). Of that amount, $628.00 has been recovered by benefit offset, leaving a remaining overpayment balance of $32.00.

Furthermore, the claimant shall be paid retroactive benefits.

Iowa Code section 96.6(1) provides:

      96.6 Filing — determination — appeal.
      1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim or show good cause for the failure to do so to support a request for retroactive benefits. Iowa Admin. Code r. 871-24.2(1)g.

The claimant shall be paid retroactive benefits for the eight weeks-ending February 25, 2017, because of the misinformation provided by IWD personnel.

DECISION:

The February 17, 2017, (reference 05) unemployment insurance decision is modified in favor of the appellant. Claimant has been overpaid unemployment insurance benefits in the amount of $660.00. Since $628.00 of benefits has been offset during the two weeks-ending March 11, 2017, Iowa Workforce Development may offset $32.00 for unpaid benefits during the eight weeks of benefits due claimant as outlined above.

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Dévon M. Lewis
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs