

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHY J MANLEY
Claimant

APPEAL NO: 10A-UI-10195-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/26/09
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant appealed a representative's July 16, 2010 decision (reference 05) that held her overpaid \$400.00 in benefits she received for the week ending May 2, 2009. A telephone hearing was initially scheduled on September 11, 2010. There were problems with issues noted on other decisions the claimant had appealed. The claimant agreed the appeals that had been scheduled on September 11 could be continued so the four decisions the claimant appealed could all be handled at one time.

A telephone hearing was held on September 18, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Has the claimant been overpaid \$400.00 in benefits she received for the week ending May 2, 2009?

FINDINGS OF FACT:

The claimant established a claimant for benefits during the week of April 27, 2008. When the claimant had not earned \$250.00 between April 27, 2008, and April 26, 2009, she continued to receive Emergency Unemployment Compensation benefits because she was not eligible to receive regular benefits until she earned \$250.00 in wages. The claimant filed for and received \$347.00 in Emergency Unemployment Compensation benefits for the week ending May 2, 2009, plus an additional \$25.00 from the government's economic stimulus program.

After the claimant earned \$250.00, she became eligible to receive regular benefits as of May 31, 2009. A representative made a mistake and on July 6, 2009, issued the claimant another check for \$375.00 plus an additional \$25.00 from the government's stimulus program for the week ending May 2, 2009.

REASONING AND CONCLUSIONS OF LAW:

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. The record establishes the claimant received two checks for the weeks ending May 2, 2009. The first one was issued on May 11 and paid her \$347.00 in Emergency Unemployment Compensation benefits and \$25 from the government's economic stimulus program. This payment was issued correctly.

On July 6, 2009, a representative made a mistake and paid the claimant regular unemployment insurance benefits for the week ending May 2, 2009. The claimant received a second benefit check of \$400.00 for the week ending May 2, 2009. As a result, the claimant received benefits from two program funds for the same week. The payment that was issued on May 11, 2009, was correct. As a result of the Department's error on July 6, 2009, the claimant has been overpaid \$400.00 in benefits that were incorrectly paid to her on July 6, 2009. Although the claimant is **NOT** at fault in receiving the overpayment, she is still required to pay back benefits she was not legally entitled to receive.

DECISION:

The representative's July 16, 2010 decision (reference 05) is affirmed. The claimant has been overpaid \$400.00 in regular benefits she received in early July 2009. The claimant is NOT at fault for the overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css