

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FRANCES E WILLIAMS
Claimant

APPEAL 17A-UI-10007-CL-T
ADMINISTRATIVE LAW JUDGE
DECISION

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 06/18/17
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 25, 2017, (reference 03), unemployment insurance decision that found claimant overpaid unemployment insurance benefits in the amount of \$260.00 based upon a failure to correctly report wages earned during the one week ending September 9, 2017. After due notice was issued, a telephone conference hearing was scheduled to be held on October 18, 2017. Claimant participated. Claimant's Exhibit A was received.

ISSUE:

Was the claimant overpaid unemployment insurance benefits for the one week ending September 9, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's weekly benefit amount is \$305.00. The claimant participated in an Americorps program during the one week ending September 9, 2017. Claimant received a stipend in the gross amount of \$175.00 for the one week ending September 9, 2017. Claimant reported gross wages of \$121.00 and was paid \$260.00 in gross benefits for that week. Claimant was initially unsure of how to calculate her weekly stipend. Later, when claimant received a paystub for the two-week time period ending September 15, 2017, she contacted Iowa Workforce Development to recalculate her benefit payment. The paystub reflected claimant was paid \$351.00 for the two-week period ending September 15, 2017. The agency attributed the entire amount to the one week ending September 9, 2017, and found claimant overpaid benefits in the amount of \$260.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant incorrectly reported wages for the week ending September 9, 2017 and is overpaid as a result.

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.

Iowa Admin. Code r. 871-23.2(2) provides:

Definition of wages for employment during a calendar quarter.

(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The Employer's Contribution and Payroll Report, Form 65-5300, shall be used as prima facie evidence of when the wages were paid. If the wages are not listed on the 65-5300, they shall be considered as paid:

- a. On the date appearing on the check.
- b. On the date appearing on the notice of direct deposit.
- c. On the date the employee received the cash payment.
- d. On the date the employee received any other type of payment in lieu of cash.

Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

Wage deduction from benefits is calculated as follows:

Gross wages (or holiday pay) – 25% of WBA = deduction from benefits (round down)

\$175 - (.25 x \$305 = \$76) = \$99 deduction from benefits

\$305 - \$99 = \$206 partial benefits

See also Unemployment Insurance Benefits Handbook for further explanation.

Since claimant was paid \$260.00 in benefits but was only entitled to \$206.00, the administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$54.00 pursuant to Iowa Code § 96.3(7) as the claimant did incorrectly report wages for the one week ending September 9, 2017. The representative's decision calculation is incorrect at \$260.00.

DECISION:

The September 25, 2017, (reference 03) unemployment insurance decision is modified in favor of appellant. Wages were incorrectly reported. The claimant was overpaid unemployment insurance benefits in the amount of \$54.00. The benefits have since been offset, thus removing the overpayment. Therefore, claimant should be reimbursed in the amount of \$206.00.

Christine A. Louis
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Decision Dated and Mailed

cal/scn