

IOWA DEPARTMENT OF INSPECTIONS & APPEALS  
DIVISION OF ADMINISTRATIVE HEARINGS  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 09-IWDUI-191  
**OC:** 05-11-08  
**Claimant:** Appellant (2)

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 written Notice of Appeal, directly to the ***Employment Appeal Board, 4<sup>th</sup> 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.

**ELIZABETH A. BLOYE**  
**2305 SAMANTHA DR.**  
**DUBUQUE, IA 52002-0495**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATION AND RECOVERY**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

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.

DAN ANDERSON, IWD

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(Administrative Law Judge)  
**September 22, 2009**  
(Decision Dated & Mailed)

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Section 96.16-4 - Misrepresentation  
Section 96.3-7 - Recovery of Overpayments

### **STATEMENT OF THE CASE**

Claimant Elizabeth A. Bloye filed an appeal from an Iowa Workforce Development decision dated August 13, 2009, reference 02, which held she had been overpaid unemployment benefits in the amount of \$2,353 because she incorrectly reported wages earned with Northeast Iowa Community College during the period from May 31, 2008 through August 23, 2008.

A hearing was scheduled by way of telephone conference call on September 21, 2008. Ms. Bloye did not appear or participate in the hearing. Neither did anyone appear to

participate on behalf of Iowa Workforce Development, Investigation and Recovery. Official notice was taken of the contents of the administrative record.

### **FINDINGS OF FACT**

Elizabeth A. Bloye filed a claim for unemployment benefits with an effective date of May 11, 2008. Iowa Workforce Development apparently audited the claim as demonstrated by the Wages Cross Match form filled out by Northeast Iowa Community College on October 28, 2008. That document shows Ms. Bloye earned wages in the amount of \$100 for the week ending May 31, 2008; \$350 for the week ending June 21, 2008; \$600 for the week ending June 28, 2008; and, \$675 for the week ending July 5, 2008.

The record is devoid of any evidence whatsoever as to the amount of earnings Northeast Iowa Community College reported for Ms. Bloye after July 5, 2009; the amount of wages, if any, reported by Ms. Bloye during the weeks in question, the amount of benefits she was paid during the period in question or the amount of benefits to which the department determined she would have been entitled had she properly reported her earnings. The only document contained in the administrative record is a Decision Overpayment Worksheet that shows it was determined Ms. Bloye was overpaid benefits for week ending May 31, 2008 in the amount of \$7.00 and for the period from June 21, 2008 through August 23, 2008 in the amount of \$2,353. The undersigned cannot discern from the record how the department arrived at that determination.

### **CONCLUSIONS OF LAW**

The issue is whether Elizabeth A. Bloye has been overpaid benefits in the amount of \$2,353 and, if so, whether the overpayment was the result of misrepresentation on Ms. Bloye's part.

Iowa law provides that the division of job service may, in its discretion, recover any overpayment of benefits regardless of whether the recipient acted in good faith. Recovery may be made by either having a sum equal to the overpayment deducted from future benefits or by having the recipient pay the amount of the overpayment to the division.<sup>1</sup> If any benefits were received due to misrepresentation, the department is entitled to file a lien in the amount of the overpayment in favor of the state against any property owned by the benefits recipient.<sup>2</sup>

The department has failed to present any evidence whatsoever by which it might be determined Ms. Bloye received an overpayment of benefits or, if so, the amount of that overpayment. It is unknown how much, if any, wages Ms. Bloye reported, her weekly benefit amount or how much she earned after the week ending July 5, 2008. Without this information, it cannot be held Ms. Bloye was overpaid benefits. Therefore, the department's decision must be reversed.

Because the department's decision Ms. Bloye was overpaid benefits is being reversed,

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<sup>1</sup> Iowa Code section 96.3(7).

<sup>2</sup> Iowa Code section 96.16(4).

there is no reason to address the issue of misrepresentation.

### **DECISION**

The decision of the representative dated August 13, 2009, reference 02, is REVERSED. The department shall take any steps necessary to implement this decision.

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