

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LORI A TESKA**  
Claimant

**APPEAL NO. 10A-UI-13867-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/20/09**  
**Claimant: Appellant (2)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's October 1, 2010 determination (reference 02) that held she had been overpaid \$228.00 in benefits she received for the weeks ending May 22 and May 29, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant has not been overpaid \$228.00 in benefits.

**ISSUE:**

Has the claimant been overpaid \$228.00 in benefits she received for the weeks ending May 22 and May 29, 2010?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of September 20, 2009. About the same time the claimant learned another federal unemployment extension had been passed by Congress, she started going to orientation for the U.S. Census Bureau.

The claimant started training for the U.S. Census Bureau job in May 2010. When the claimant filed weekly claims for these weeks in May 2010, she reported the hours she worked, but not the wages she earned because she did not know how much she would be paid and wages were paid a week after they were earned. The claimant tried a number of times to submit the wages she earned after she knew the amount. She was not successful in doing this.

The weeks in question are the weeks ending May 22 and 29, 2010. The claimant filed claims for these weeks and received her maximum weekly benefit amount of \$266.00 each week. The Department held the claimant overpaid \$228.00 in benefits because the Department asserted the claimant did not report or someone failed to notice she reported \$180.00 in wages for these weeks.

The claimant does not know how many hours she worked or if she was in training these weeks. The claimant did know the hourly wage she received while in training.

**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. A partially unemployed claimant may earn a weekly sum equal to the weekly benefit amount plus \$15.00 before being disqualified from receiving benefits for excessive earnings. When a claimant earns less than the above amount, wages must be deducted based on the formula in 871 IAC 24.18.

If the claimant earned \$180.00 in wages for the weeks ending May 22 and 29, she was only legally entitled to receive \$152.00 in benefits for each week. This would mean she would be overpaid \$228.00 in benefits. The evidence does not, however, establish how many hours the claimant worked these weeks, her hourly wage or the gross wages she earned for the two weeks in question. Without documentation from the U.S. Census Bureau as to what wages the claimant earned during any specific week, the evidence does not establish that the claimant has been overpaid any benefits in May 2010. Therefore, the facts do not establish that the claimant has been overpaid \$228.00 in benefits. This means the benefits that were offset in during the week ending September 25, 2010, must be paid to the claimant.

Since the claimant did not know how many hours she worked in May or what wages she may have earned, without any verification from the U.S. Census Bureau about the wages the claimant may have earned during the weeks in question the evidence does not establish what wages, if any, she earned during these weeks. Without any paystubs scanned or any representative's testimony, the evidence does not support the Department's contention that the claimant has been overpaid \$228.00 in benefits for the weeks ending May 22 and 29, 2010.

**DECISION:**

The representative's October 1, 2010 determination (reference 02) is reversed. The evidence does not establish that the claimant has been overpaid \$228.00 in benefits for the weeks ending May 22 and 29, 2010. Therefore, she has not been overpaid. The \$228.00 in benefits that was previously used to offset the alleged overpayment during the week ending September 25, 2010, must be paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw