

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAULA LOPEZ CASTILLO
Claimant

APPEAL 18A-UI-06149-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/08/18
Claimant: Appellant (2)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Paula Lopez Castillo (claimant) filed an appeal from the May 18, 2018, reference 02, unemployment insurance decision that determined she had been overpaid unemployment insurance benefits. After due notice was issued, a telephone conference hearing began on June 20, 2018 and the record was held open until June 22, 2018 at 4:30 p.m. to allow the claimant additional time to submit her evidence. The claimant participated. Spanish interpretation was provided by Claudio (employee number 6347) from CTS Language Link. The claimant's Exhibit A and department's Exhibits D1 through D3 were admitted.

ISSUES:

Is the appeal timely?

Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 8, 2018. The claimant filed for and received a total of \$713.00 in unemployment insurance benefits for the weeks between April 8, 2018 and April 28, 2018. The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been reversed in a decision of the administrative law judge in appeal 18A-UI-06148-SC-T.

The unemployment insurance decision was mailed to the appellant's address of record on May 18, 2018. The decision was written in English with Spanish on the back explaining her appeal rights. The claimant received the decision within ten days but does not speak or read English or read Spanish. The claimant eventually reached out to the Council Bluffs Iowa Works office on June 5, and the staff put her on notice that she had been overpaid unemployment insurance benefits. The claimant immediately filed an appeal with the assistance of the IWD staff.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant's appeal is timely and the claimant was not overpaid unemployment insurance benefits.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not have an opportunity to appeal the fact-finder's decision because, while the decision was received, the claimant was unable to read or comprehend the information and did not know she was disqualified and overpaid. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the disqualification and overpayment. Therefore, the appeal shall be accepted as timely.

Iowa Code § 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.

Since the decision disqualifying the claimant has been reversed, the claimant was not overpaid \$713.00 in unemployment insurance benefits.

DECISION:

The claimant's appeal is timely. The unemployment insurance decision dated May 18, 2018, reference 02, is reversed. The claimant was not overpaid \$713.00 in unemployment insurance benefits.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/rvs