

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD T PASSANISI
Claimant

APPEAL NO. 08A-UI-06091-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/04/08 R: 04
Claimant: Appellant (2)**

Iowa Code section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

Richard Passanisi filed a timely appeal from the June 27, 2008, reference 02, decision that he was overpaid \$360.00 for the week ending June 21, 2008. After due notice was issued, a hearing was held on July 18, 2008. Mr. Passanisi participated. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 08A-UI-06090-JTT, and the administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether the claimant was overpaid \$360.00 for the week ending June 21, 2008.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Richard Passanisi established a claim for benefits that was effective May 4, 2008 and received benefits. Mr. Passanisi received \$360.00 in benefits for the week ending June 21, 2008.

On June 27, 2008, Workforce Development issued a reference 02 decision that Mr. Passanisi was overpaid benefits of \$360.00 for the week ending June 21, 2008. The overpayment decision was prompted by a disqualification decision that has been reversed on appeal. See Appeal Number 08A-UI-06090-JTT.

For the week ending June 28, 2008, Workforce Development offset \$360.00 in benefits that would otherwise have been disbursed to Mr. Passanisi. The offset was taken to recover the overpayment of benefits the Agency believed had occurred during the week ending June 21, 2008.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because the disqualification decision that prompted the overpayment decision has been reversed on appeal, the administrative law judge concludes Mr. Passanisi was not overpaid \$360.00 for the week that ended June 21, 2008.

DECISION:

The Agency representative's June 27, 2008, reference 02, is reversed. The claimant was not overpaid \$360.00 for the week that ended June 21, 2008. The Agency shall take further steps to address the offset of benefits that occurred during the week that ended June 28, 2008.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw