

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BERNICE E HALE**  
Claimant

**APPEAL NO: 09A-UI-08148-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOW WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/08/09**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Bernice E. Hale (claimant) appealed a representative's June 2, 2009 decision (reference 02) that concluded she had been overpaid \$1,500.00 in benefits she received for the weeks ending March 14 through May 16, 2009. The overpayment occurred as the result of a May 21, 2009 redetermination of the claimant's maximum weekly benefit amount. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 23, 2009. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Has the claimant been overpaid \$1,500.00 in benefits she received for the weeks ending March 14 through May 16, 2009?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of March 8, 2009. The Department initially determined the claimant was eligible to receive \$375.00 a week in benefits. This amount was based on wages that appeared in the claimant's base period. Some of the wages in the claimant's base period, however, were not earned by the claimant. On May 21, 2009, the Department deleted wages the claimant had not earned, which reduced her maximum weekly benefit amount to \$150.00 a week. The claimant did not appeal the reduction of her weekly benefit amount.

As a result of the reduced maximum weekly benefit amount, the claimant received \$1,500.00 in benefits that she was not legally entitled to receive for the weeks ending March 14 through May 16, 2009.

**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. Based on the May 21, 2009 redetermination decision that reduced the claimant's weekly benefit amount from \$375.00 to \$150.00 a week, the claimant received \$1,500.00 in benefits during the weeks ending March 14 through May 16, 2009, that she was not legally entitled to receive. In other words, for any week the claimant received her maximum weekly benefit amount, the Department paid her \$225.00 more than she was legally entitled to receive. In the claimant's case, the Department paid her \$1,500.00 in benefits for the weeks in question that she was not legally entitled to receive. The facts establish the claimant was not at fault in receiving the overpayment. Even though the claimant is not at fault, the law requires her repay the overpayment.

The claimant asserted that if such a mistake had been made in a private business setting, the person who made the mistake would be responsible for any overpayment, not the person who relied on the expertise of another individual. Since she did not make the mistake and relied on the Department's expertise to determine the amount of her weekly benefit amount, the claimant argued that she should not be responsible for any overpayment. While, the claimant's position is understandable, the law says the Department shall recover benefits from an individual even when the Department makes a mistake. If the claimant wants to pursue a change in the law, she should contact her local State representative or senator.

The record indicates the Department has been offsetting the overpayment by recouping benefits the claimant has been legally entitled to receive since the week ending May 23. As of the date of the hearing, the claimant's current overpayment balance is \$900.00.

**DECISION:**

The representative's June 2, 2009 decision (reference 02) is affirmed. Based on the May 21 redetermination that reduced the claimant's maximum weekly benefits from \$375.00 to \$150.00, the claimant was overpaid \$1,500.00 in benefits she received for the weeks ending March 14 through May 16, 2009. Even though the claimant is not at fault in receiving the overpayment, the law requires her to repay this amount to the Department. Since the week ending May 17, the Department has been offsetting the overpayment by using benefits the claimant is legally entitled to receive. As of the date of this decision, the claimant's overpayment has been reduced to \$900.00.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css