

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHEILA L GREGAN
Claimant

APPEAL NO. 09A-UI-07054-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 01/18/09
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Sheila L. Gregan filed a timely appeal from an unemployment insurance decision dated April 29, 2009, reference 03, that ruled she had been overpaid \$722.00 for the two weeks ending February 14, 2009. After due notice was issued, a telephone hearing was held May 26, 2009, with Ms. Gregan participating. This matter is considered on a consolidated record with appeals 09A-UI-07052-AT and 09A-UI-07053-AT.

ISSUE:

Has the claimant been overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Sheila L. Gregan received unemployment insurance benefits in the gross amount of \$722.00 for the two weeks ending February 14, 2009. In companion decision 09A-UI-07053-AT, this administrative law judge has ruled that the fact-finding decision denying benefits to Ms. Gregan for these two weeks has become final due to an untimely appeal.

The Agency withheld benefits from Ms. Gregan for the two weeks ending May 9, 2009. She currently owes nothing to the Agency.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The evidence in this record establishes that Ms. Gregan received unemployment insurance benefits for two weeks during which she was not entitled to receive them. Although this was not her fault, the law requires that benefits paid in error be repaid, whether or not the individual is at fault for the overpayment. Although Ms. Gregan was overpaid, the overpayment has been recovered.

DECISION:

The unemployment insurance decision dated April 29, 2009, reference 03, is affirmed. The claimant was overpaid \$722.00 for the two weeks ending February 14, 2009. The overpayment has been recovered.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw