

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KAREN S EDEN**  
Claimant

**APPEAL NO: 13A-UI-12131-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/10/13**

**Claimant: Appellant (1)**

Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Karen S. Eden (claimant) appealed a representative's October 17, 2013 decision (reference 10) that concluded she had been overpaid unemployment insurance benefits for the week ending September 14, 2013. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on November 20, 2013, in conjunction with one related appeal, 13A-UI-12130-DT, scheduled for hearing at 9:00 a.m. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. The administrative law judge considered the record closed at 9:10 a.m. At 9:11 a.m., the claimant called the Appeals Section and requested that the record be reopened. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Should the hearing record be reopened? Was the claimant overpaid unemployment insurance benefits of \$486.00 for the week ending September 14, 2013?

**FINDINGS OF FACT:**

The claimant received the hearing notice prior to the November 20, 2013 hearing. The instructions inform the parties that if the party does not contact the Appeals Section and provide the phone number at which the party can be contacted for the hearing, the party will not be called for the hearing. The first time the claimant directly contacted the Appeals Section was on November 20, 2013, 11 minutes after the scheduled start time for the hearing. The claimant had not read all the information on the hearing notice, and had assumed that the Appeals Section would initiate the telephone contact even without a response to the hearing notice.

A representative issued a decision dated October 15, 2013 (reference 08) that concluded the claimant was disqualified from receiving benefits for the week ending September 14, 2013 because of not being able and available for work that week. The overpayment decision was

issued in this case as a result of that disqualification decision. As determined in the concurrently issued decision in appeal 13A-UI-12130-DT, that disqualification decision has now been affirmed.

The claimant established a claim for unemployment insurance benefits effective March 10, 2013. The claimant received unemployment insurance benefits for the week ending September 14, 2013 in the amount of \$486.00. That amount has subsequently been recovered through offset against eligibility in another benefit week for which the claimant was eligible; as of the date of this decision the claimant's overpayment balance is zero.

#### **REASONING AND CONCLUSIONS OF LAW:**

The first issue in this case is whether the claimant's request to reopen the hearing should be granted or denied. After a hearing record has been closed the administrative law judge may not take evidence from a non-participating party but can only reopen the record and issue a new notice of hearing if the non-participating party has demonstrated good cause for the party's failure to participate. 871 IAC 26.14(7)b. The record shall not be reopened if the administrative law judge does not find good cause for the party's late contact. *Id.* Failing to read or follow the instructions on the notice of hearing are not good cause for reopening the record. 871 IAC 26.14(7)c.

The first time the claimant called the Appeals Section for the November 20, 2013 hearing was after the hearing had been closed. Although the claimant intended to participate in the hearing, she failed to read or follow the hearing notice instructions and did not contact the Appeals Section prior to the hearing. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. The claimant did not establish good cause to reopen the hearing. Therefore, the claimant's request to reopen the hearing is denied.

An underlying disqualification can result in an overpayment of unemployment insurance benefits. If the claimant had a dispute with whether or not she should have been disqualified for the week ending September 14, 2013, then she needed to have filed an appeal from that decision within the appeal period for that decision. Iowa Code § 96.6-2; *Beardslee v. Iowa Department of Job Service*, 276 N.W.2d 373 (Iowa 1979). The decision causing the disqualification has now become final and is not subject to review in this case.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7. In this case, the claimant received benefits for the week ending September 14, 2013 but was ineligible for those benefits.

Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law. The administrative law judge concludes that the claimant was overpaid benefits of \$486.00 pursuant to Iowa Code § 96.3-7. That overpayment has been recovered in accordance with the provisions of the law by offset against a subsequent week of eligibility.

**DECISION:**

The representative's October 17, 2013 decision (reference 10) is affirmed. The claimant was overpaid benefits of \$486.00 for the week ending September 14, 2013.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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