

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARGARET R O'NEILL
Claimant

APPEAL NO: 12A-UI-08775-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/25/11
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's July 10, 2012 determination (reference 01) that held her overpaid \$656.00 in benefits she received for the weeks ending December 31, 2011, through January 14, 2012, because holiday pay and wages were not correctly reported. The claimant participated at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant has been overpaid \$656.00 in benefits.

ISSUES:

Did the claimant correctly report her holiday pay and wages during the weeks ending December 31, 2011, through January 14, 2012?

Has the claimant been overpaid any benefits for these weeks?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of December 25, 2011. When the claimant was opening her claim, the computers went down at the local Workforce office and the application was completed on a paper form. The claimant only planned to file a claim for the week of December 25. She did not receive any information about how to file a weekly claim.

Before the claimant went to Florida in January 2012, she noticed she had not received any benefits. She went to her local Workforce office and learned that she needed to call in each week she filed a claim for benefits. A local representative then filed claims on the claimant's behalf for the weeks ending December 31, 2011, January 7 and 14, 2012.

On the weekly claim for the week ending December 31, there were no holiday wages reported, but the claimant received holiday wages of \$108.00 for this week. The claimant earned wages of \$536.00 for the week ending January 7, but no wages were reported. For the week ending January 14, \$108.00 wages were reported; but the clamant earned \$536.00 in wages.

After the claimant returned from a vacation, she noticed she had too much money on her unemployment insurance debit card. She again went to her local Workforce office and reported receiving too much in benefits. The representative took the claimant's information and indicated this matter would be looked into and resolved.

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. The claimant does not dispute she has been overpaid, but disagrees with the amount of the overpayment.

A claimant who is partially unemployed, may earn \$15.00 more than her maximum weekly benefit and still receive partial benefits for a week. A portion of these wages reduce the total amount of benefits the claimant is eligible to receive for that week. 871 IAC 24.18.

The following reflects what the claimant reported, should have reported and received for the weeks in question:

Week Ending	Earnings Reported	Correct Earnings	Benefits Paid	Should Have Received
12/31/11	\$0	\$108 (holiday pay)	\$328	\$302
01/07/12	\$0	\$536	\$328	\$0
01/14/12	\$108	\$536	\$302	\$0

The maximum weekly benefit the claimant was entitled to receive, \$328, is reduced by the taxes taken out for state and federal income taxes. This decision reflects the gross benefit amount, not the net amount or the actual amount the claimant received. The claimant may be able to recoup some of the taxes that were paid to her on her 2012 income tax returns.

If a representative had not filed for three weeks, the claimant would only be overpaid \$26.00 in benefits. Since weeks in which the claimant worked were inadvertently filed for the claimant, she has been overpaid a total of \$656.00. Even though the claimant is not at fault in receiving the overpayment, she received benefits she was not entitled to receive benefits. Therefore, she is legally responsible for paying back \$656.00 in benefits to the Department.

DECISION:

The representative's July 10, 2012 determination (reference 01) is affirmed. The claimant was not legally entitled to receive a total of \$656.00 in benefits she received between December 25, 2011, and January 14, 2012. Even though she is not at fault in receiving the overpayment, she is legally responsible for paying back benefits she was not entitled to receive.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs