

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SYLVIE M LARSON
Claimant

APPEAL NO: 09A-UI-04732-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/21/08
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Sylvie M. Larson (claimant) appealed a representative's March 19, 2009 decision (reference 02) that concluded she had been overpaid \$3,438.00 in regular unemployment insurance benefits she received between December 21, 2008, and March 7, 2009. The overpayment occurred because a representative's March 17, 2009 decision concluded the claimant was not eligible to receive regular unemployment as of December 21, 2008, because she had not made \$250.00 in wages between December 23, 2007, and December 21, 2008. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on April 22, 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 \$3,438.00 in regular unemployment insurance benefits she received between December 21, 2008, and March 7, 2009?

FINDINGS OF FACT:

In late December 2008, the claimant reopened her claim for benefits by going to her local Workforce office. She did not know what kind of benefits she was filing for, regular or Emergency Unemployment Compensation Benefits. The Department initially set up the claimant to receive regular unemployment insurance. The claimant filed for and received regular unemployment insurance for the weeks ending December 27, 2008, through March 7, 2009. For the weeks ending February 28 and March 7, she received an additional \$25.00 as a result of the federal stimulus program. The claimant received a total of \$3,438.00 in regular unemployment insurance benefits for these weeks.

The claimant appealed the representative's March 17, 2009 decision. This decision has been affirmed. See decision for appeal 09A-UI-04731-DWT.

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 section 96.3-7. Based on the decision for 09A-UI-04731-DWT, the claimant is not legally entitled to receive regular unemployment insurance benefits for the weeks ending December 27, 2008, through March 7, 2009.

The facts establish the claimant was not at fault in receiving the overpayment. Agency errors and the failure to timely examine the claimant's claim resulted in her overpayment. The claimant has been overpaid a total of \$3,438.00 in regular unemployment insurance benefits.

After the Department determined the claimant was ineligible to receive regular unemployment insurance benefits, the Department held her eligible to receive Emergency Unemployment Compensation Benefits (EUCU) for the weeks ending December 27, 2008, through February 7, 2009, and again as of March 28, 2009. Since the law only allows the Department to offset 50 percent of a claimant's EUCU benefits, only 50 percent of the claimant's weekly benefit amount has been used to offset the regular unemployment overpayment. As of April 22, 2009, the claimant still had an overpayment balance of \$2,010.73.

DECISION:

The representative's March 19, 2009 decision (reference 02) is affirmed. As of December 21, 2008, the claimant was not legally entitled to receive regular unemployment insurance benefits. She has been overpaid \$3,438.00 in regular unemployment insurance benefits she received for the weeks ending December 27, 2008, through March 7, 2009. Since the claimant was found eligible to receive EUCU benefits, she only receives 50 percent of these benefits and the rest is used to offset the overpayment of regular unemployment insurance benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs