

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSE R MELENDEZ
Claimant

APPEAL 17R-UI-10518-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/23/17
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant, Jose R. Melendez, filed an appeal from the unemployment insurance decision dated July 17, 2017, (reference 02) that concluded he was overpaid unemployment insurance benefits. A first hearing was scheduled between the parties on September 7, 2017. Mr. Melendez failed to appear at the hearing, and the appeal was dismissed. Upon a remand decision dated October 13, 2017 to the Employment Appeal Board, Mr. Melendez's request to reopen the hearing was granted.

Notice of the second hearing was provided to the parties. A telephone hearing was held on November 20, 2017. The claimant participated personally and through a Spanish interpreter with CTS Language Link. Michelle Saddoris, Job Insurance Quality Auditor II, also participated. Department Exhibits A through D were received into evidence. The administrative law judge took official notice of the claimant's unemployment insurance benefits records. Based on the evidence, the arguments presented, 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 benefits in the amount of \$759.00?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 23, 2017. The claimant filed for and received a total of \$881.00 in unemployment insurance benefits for the weeks between April 23, 2017 and July 8, 2017. Following a quality control audit, the amount of overpayment was modified to \$759.00.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 17R-UI-10519-JC-T. This decision also detailed the overpayment as follows:

WEEK ENDING	WAGES PER CLAIMAN T	WAGES PER EMPLOYE R	UI BENEFIT S PAID	UI BENEFITS ENTITLED	UNDERPAYMEN T OF BENEFITS	OVERPAYMEN T OF BENEFITS
04/29/17	301.00	380.00	180.00	101.00		79.00
05/06/17	315.00 (W) 421.00 (V)	359.00	0	122.00	122.00	0
05/13/17	311.00	380.00	170.00	101.00		69.00
05/20/17	350.00	444.00	131.00	0		131.00
05/27/17	210.00	288.00	271.00	193.00		78.00
06/03/17	424.00	543.00	0	0		0
06/10/17	345.00	446.00	136.00	0		136.00
06/17/17	384.00	601.00	97.00	0		97.00
06/24/17	385.00	609.00	96.00	0		96.00
07/01/17	384.00	584.00	97.00	0		97.00
07/08/17	383.00	519.00	98.00	0		98.00
				SUBTOTAL	122.00	881.00
				NET TOTAL		\$759.00

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid \$759.00 in unemployment insurance benefits.

Iowa Code section 96.3(7)a, 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.

Since the decision disqualifying the claimant has been affirmed in appeal 17R-UI-10519-JC-T, the overpayment derived from the decision is also affirmed. Based on the evidence presented, the administrative law judge concludes the claimant was overpaid benefits in the amount \$759.00, which must be repaid.

DECISION:

The unemployment insurance decision dated July 17, 2017, (reference 02) is affirmed. The claimant was overpaid benefits in the amount of \$759.00, which must be repaid.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn