

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MARJORIE PHELPS
1023 N THORNWOOD
DAVENPORT IA 52804

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 05A-UI-11155-DWT
OC: 10/02/05 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Marjorie Phelps (claimant) appealed a representative's November 1, 2005 decision (reference 02) that concluded she had been overpaid \$400.00 in benefits she received for the weeks ending October 15 and 22, 2005. The overpayment occurred as the result of a representative's decision that concluded the claimant was ineligible to receive benefits until November 13, 2005. After a hearing notice was mailed to the claimant, a telephone hearing was held on November 15, 2005. 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 \$400.00 in unemployment insurance benefits?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of October 2, 2005. She filed claims for the weeks ending October 15 and 22, 2005. She received a total of \$400.00 in benefits for these weeks.

The claimant appealed the representative's decision that held her ineligible to receive benefits until November 13, 2005. This decision has been affirmed. See decision for appeal 05A-UI-11154-DWT.

The claimant did not realize the employer would pay her for the 120 hours of vacation pay she earned in 2005. The claimant did not receive the additional payment until after she filed her claim for the week ending October 22, 2005. When the claimant received the additional money for vacation pay, she contacted a local Workforce representative who advised her to let an administrative law judge handle the issue.

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. Based on the decision for appeal 05A-UI-11154-DWT, the claimant is not legally entitled to receive benefits for the weeks ending October 15 and 22, 2005. Even though the claimant was not at fault in receiving the overpayment, she is still required to repay this amount (\$400.00) or have it offset from her future benefit payments.

DECISION:

The representative's November 1, 2005 decision (reference 02) is affirmed. The claimant is not legally entitled to receive benefits for the weeks ending October 15 and 22, 2005. Even though the claimant is not at fault for the overpayment, the claimant must repay or offset the \$400.00 overpayment from her future benefit payments.

dlw/tjc