

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELISA N TEGTMEIER
Claimant

APPEAL 17A-UI-06944-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/23/17
Claimant: Appellant (2)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Elisa N. Tegtmeier (claimant) appealed an unemployment insurance decision dated June 20, 2017, reference 06, that concluded she was overpaid \$480.00 in unemployment insurance benefits for the one-week period ending May 27, 2017. A telephone hearing was held on July 27, 2017. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing. Department's Exhibits D1 and D2 were received. Official notice was taken of the claimant's appeal letter.

ISSUES:

Is the appeal timely?
Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 23, 2017. The claimant received \$480.00 in unemployment insurance benefits for the one-week period ending May 27, 2017. The unemployment insurance decision dated June 12, 2017, reference 03, which denied the claimant benefits for the week ending May 27 was amended by the unemployment insurance decision dated June 22, 2017, reference 08, which allowed her benefits for the same week.

On June 20, 2017, the unemployment insurance decision, reference 06, which found the claimant overpaid, was mailed to her last known address. Upon receiving the decision, the claimant contacted the customer service number on the decision. She was told the decision had been issued in error and the issue would be fixed. She was not told to file an appeal to the decision. The claimant then received other decision letters, up through reference 10. On July 10, 2017, she again contacted customer service and explained she had been told the issue would be fixed. At that time, she was advised to file an appeal while the issue was being reviewed. The claimant filed her appeal the same day.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely and the claimant was not overpaid benefits.

Iowa Code section 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant's failure to file an appeal within the appeal period was solely because of incorrect information received from an IWD customer service advisor. She found out about the misinformation upon a second discussion with IWD customer service and she filed an appeal immediately. This delay was prompted by and perpetuated by the agency. See, Iowa Admin. Code r. 871-24.35(2). Therefore, the appeal shall be accepted as timely.

Iowa Code § 96.3(7) provides, in pertinent part:

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 was later amended by the agency and allowed benefits, the claimant was not overpaid \$480.00 in unemployment insurance benefits.

DECISION:

The claimant's appeal is timely. The unemployment insurance decision dated June 20, 2017, reference 06, is reversed. The claimant was not overpaid \$480.00 in unemployment insurance benefits.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn