

IOWA DEPARTMENT OF INSPECTIONS & APPEALS  
DIVISION OF ADMINISTRATIVE HEARINGS  
Lucas State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 07-IWDUI-169  
**OC:** 0/0/07  
**Claimant:** Appellant (4)

**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, 4<sup>th</sup> 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.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**KERRI M MYERS**  
**1110 ELM STREET**  
**MARION IA 52302-2843**

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.

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATION AND RECOVERY**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

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 the Department . 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.

DAN ANDERSON, IWD

---

(Administrative Law Judge)

December 28, 2007

---

(Decision Dated & Mailed)

---

Section 96.16-4 - Misrepresentation  
Section 96.3-7 - Recovery of Overpayments

#### STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development decision dated November 26, 2007, reference 05, which held that the claimant was overpaid unemployment benefits in the amount of \$241.00, because she failed to report wages earned with Revenue Cycle Partners for the week ending April 14, 2007.

After due notice was issued, a hearing was scheduled for a telephone conference call on December

24, 2007. The claimant participated. Neil Anderson, Investigator, participated for Iowa Workforce Development, Investigation and Recovery.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses, and having examined all of the evidence in the record, finds: The claimant filed a claim for unemployment benefits with an effective date of February 11, 2007. The claimant claimed for and received unemployment benefits during the second quarter of 2007.

The department audited the claimant's unemployment claim for the second quarter of 2007, and Revenue Cycle Partner's representative reported to the department the gross earnings paid to the claimant during the week ending April 14, 2007. The department compared the employer's wage report against the claimant's claims for the same week.

The department determined the claimant was overpaid benefits \$241 for the week ending April 14, 2007. The employer reported the claimant worked twenty-hours, and she had gross wages of \$273. The claimant reported no work and wages for the week, and she received a benefit of \$241. Based on the employer's wage report, the claimant was not entitled to any benefit.

Investigator Anderson mailed a notice to the claimant on November 7, 2007 regarding the \$241 overpayment. When the claimant failed to respond, the department issued the overpayment decision. Since the claimant failed to report her work and wages, the department concluded the claimant misrepresented her claim.

The reason the claimant failed to report her gross wages of \$273 was because she did not believe she needed to report orientation work and part-time wages for the week at issue.

Since the claimant's appeal was postmarked on December 4, 2007 within the ten-day appeal period (of December 6), the department conceded this was a non-issue. The overpayment was collected by offset procedure.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is overpaid benefits \$241, and if so whether it is the result of misrepresentation.

#### **Iowa Code Section 96.16-4 provides:**

4. Misrepresentation. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under this chapter or shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property,

whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

**Iowa Code Section 96.3-7 provides:**

7. Recovery of overpayment of benefits. 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 division of job service 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 division a sum equal to the overpayment.

If the division determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant is overpaid benefits \$241 for the week ending April 14, 2007 pursuant to Iowa Code section 96.3-7. The claimant did not dispute the employer's wage report for the week at issue, but she had a mistaken belief that she did not need to report her orientation and part-time wages that is not misrepresentation. The claimant would not have appeal this matter had she understood the overpayment had been collected.

**DECISION:**

The decision of the representative dated November 26, 2007, reference 05, is MODIFIED in favor of the claimant. The claimant is overpaid benefits \$241, but it is NOT due to misrepresentation. The overpayment has been repaid and satisfied.

rls