

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHILIP A MAY
Claimant

APPEAL NO: 11A-UI-12836-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/03/10
Claimant: Appellant (1)

Iowa Code § 96.3(7)a – Waiver of Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 19, 2011 determination (reference 03) that held he had been overpaid \$1,048.00 in benefits he received for the weeks ending January 9 through February 27, 2010. The overpayment occurred as the result of an administrative law judge's April 8, 2010 decision that reversed an earlier representative's determination. The claimant participated in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant is not eligible for a waiver of the overpayment.

ISSUES:

Has the claimant been overpaid \$1,048.00 in benefits he received for the weeks ending January 9 through February 27, 2010?

Is the claimant eligible for a waiver of any overpayment?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of January 3, 2010. He filed claims for the weeks ending January 9 through February 27, 2010. He received his maximum weekly benefit amount of \$106.00 for each of these weeks. Each week he received an additional \$25 from the government's economic stimulus program.

The claimant participated at a fact-finding interview. The employer's human resource coordinator participated at the fact-finding interview on the employers' behalf. Based on the information presented at the fact-finding interview, a representative issued a February 16, 2010 determination that held the claimant qualified to receive benefits.

The employer appealed the February 16, 2010 determination. The claimant did not participate at the hearing. The employer participated at the hearing. Based on the evidence presented by the employer, the administrative law judge reversed the February 16 determination and concluded the claimant was not qualified to receive benefits as of January 3, 2010. See

decision for appeal 10A-UI-02950-HT. The claimant did not appeal the administrative law judge's decision.

REASONING AND CONCLUSIONS OF LAW:

The law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. Iowa Code § 96.3(7)b.

Based on the decision for appeal 10A-UI-02950-HT, the claimant is not legally entitled to receive benefits as of January 3, 2010. He has been overpaid a total of \$1,048.00 in benefits he received for the weeks ending January 9 through February 27, 2010.

The claimant is not at fault in receiving the overpayment. Since the employer participated at the fact-finding interview, the claimant is not eligible for a waiver of the overpayment. Therefore, the claimant is required to pay back \$1,048.00 to the Department.

DECISION:

The representative's September 19, 2011 determination (reference 03) is affirmed. The claimant has been overpaid \$1,048.00 in benefits he received for the weeks ending January 9 through February 27, 2010. Even though the claimant is not at fault in receiving the overpayment, he is not eligible for a waiver of the overpayment. The claimant is required to pay back the overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs