

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHERIE MCDOWELL
Claimant

APPEAL NO. 20A-UI-01812-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/07/19
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed the February 19, 2020, (reference 02) decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,402.00 for six weeks between July 7, 2019 and January 11, 2020 as a result of a disqualification decision.

A telephone hearing was held on March 16, 2020, pursuant to due notice. The claimant participated. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The overpayment issue in this case was created by a disqualification decision that has now been affirmed. See 20A-UI-01811-AD-T.

The unemployment insurance system shows claimant has received weekly benefits in the amount of \$259.00 for the benefit week ending July 13, 2019; \$264.00 for the benefit weeks ending July 20, July 27, August 3, and August 10, 2019; and \$87.00 for the benefit week ending January 11, 2020. The total amount of benefits paid to date is \$1,402.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the February 19, 2020 (reference 02) unemployment insurance decision that determined claimant was overpaid benefits is AFFIRMED.

Iowa Code section 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.

b. (1) (a) If the department 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.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

The unemployment insurance system shows claimant has received weekly benefits in the amount of \$259.00 for the benefit week ending July 13, 2019; \$264.00 for the benefit weeks ending July 20, July 27, August 3, and August 10, 2019; and \$87.00 for the benefit week ending January 11, 2020. The total amount of benefits paid to date is \$1,402.00.

Because the disqualification decision has now been affirmed, claimant has been overpaid benefits in the amount of \$1,402.00. Benefits shall be recovered. 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.

DECISION:

The February 19, 2020 (reference 02) unemployment insurance decision that determined claimant was overpaid benefits is AFFIRMED. Claimant has been overpaid benefits in the amount of \$1,402.00. Benefits shall be recovered. 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.

Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

Decision Dated and Mailed

abd/scn