

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GOLDA P MCGRANN

Claimant

APPEAL NO. 11A-UI-02408-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OTTUMWA COMMUNITY SCHOOL DIST

Employer

OC: 08/15/10

Claimant: Appellant (1)

Section 96.3-7 - Recovery of Overpayment of Benefits

Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

Golda P. McGrann (claimant) appealed a representative's February 21, 2011 decision (reference 07) that concluded she had been overpaid unemployment insurance benefits. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on April 13, 2011, in conjunction with one related appeal, 11A-UI-02407-DT, scheduled for hearing at 1:00 p.m. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant is overpaid unemployment insurance benefits of \$433.00.

FINDINGS OF FACT:

A representative issued a decision dated February 4, 2011 (reference 04) that concluded the claimant was disqualified from receiving benefits based on her wages earned from educational institutions during the period between successive academic terms. As determined in the concurrently issued decision in appeal 11A-UI-02407-DT, the claimant did not timely appeal that decision and it has now become final.

When the claimant established her unemployment insurance benefit year effective August 15, 2010, her weekly benefit amount was calculated to be \$376.00, based on wages from all employers, including educational institutions. During the two benefit weeks ending December 25, 2010 and January 1, 2011, the claimant received unemployment insurance benefits in the amount of \$630.00.

The overpayment decision was issued in this case as a result of the February 4, 2011 (reference 04) disqualification decision; after the resulting removal of wage credits from

educational institutions, it was determined that the claimant's benefit eligibility for the weeks in question was only \$197.00, resulting in a benefit overpayment of \$433.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is overpaid benefits of \$433.00.

As determined in the concurrently issued decision in appeal 11A-UI-02407-DT, the claimant did not timely appeal the decision that caused the overpayment in this case. If the claimant had a dispute with whether or not she should have been disqualified for benefits based on education institutional employment, then she needed to have filed an appeal from that decision within the appeal period for that decision. Iowa Code § 96.6-2; Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979). The decision causing the disqualification has now become final and is not subject to review in this case.

The unemployment insurance 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. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits.

The administrative law judge concludes that the claimant is overpaid benefits of \$433.00 pursuant to Iowa Code § 96.3-7 due to the disqualification decision issued on February 4, 2011. Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's February 21, 2011 decision (reference 07) is affirmed. The claimant is overpaid benefits of \$433.00.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw