

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RACHEL D MILLER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 16A-UI-11949-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/24/16
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed the October 26, 2016, (reference 03), unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$464.00 for the one-week period ending August 6, 2016, as a result of an ineligibility decision. A telephone hearing was held on November 21, 2016, pursuant to due notice. The claimant participated.

ISSUE:

Has the claimant been overpaid unemployment insurance benefits for the period in question?

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 an ineligibility decision that has been affirmed. Claimant was employed through July 27, 2016, and was paid wages of \$595.52. The employer reported having paid her for accumulated but unused paid time off (PTO) in the gross amount of \$2512.75, but did not designate an allocation begin or end date. Claimant reported wages that eliminated eligibility for benefits the week-ending July 30, 2016. She claimed and received full gross benefits of \$464.00 the week-ending August 6, 2016. She reported vacation pay the week-ending August 13, 2016, and received no benefits. What the overpayment decision does not explain is that it was simply an accounting offset changing the week to which the vacation pay was applied to the claim and switching the benefit payment weeks. Thus, there were no actual benefits removed and the overpayment amount has been offset in that process so there is no further payment obligation.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

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.

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$464.00 pursuant to Iowa Code section 96.3(7) as the ineligibility decision that created the overpayment decision has been affirmed.

DECISION:

The October 26, 2016, (reference 03) unemployment insurance decision is affirmed. The claimant was overpaid unemployment insurance benefits in the gross amount of \$464.00 for a week when vacation pay benefits were not reported, but underpaid in the following week in which they were. This overpayment decision is only an accounting notification that benefit weeks were switched. Unfortunately that part of the process was not adequately explained.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs