

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHERYL ZEMKE
Claimant

APPEAL NO. 21A-UI-11949-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STORM LAKE-ST MARYS HIGH
Employer

OC: 03/15/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

On April 29, 2021, the claimant Cheryl Zemke appealed the April 13, 2021, (reference 03) decision that concluded the claimant was overpaid regular unemployment insurance benefits in the amount of \$39.82 for the eleven-week period ending August 22, 2020. A telephone hearing was held at 1:00 p.m. on Friday, July 16, 2021, pursuant to due notice. Appeals 21A-UI-11949-LJ-T, 21A-UI-11950-LJ-T, 21A-UI-11951-LJ-T, and 21A-UI-11953-LJ-T were heard together and created one record. The claimant, Cheryl Zemke, participated. No exhibits were offered or admitted. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant overpaid regular unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed for and has received regular unemployment insurance benefits between May 31, 2020, and August 22, 2020. The amount stated in the April 13, 2021 (reference 03) decision -- \$39.82 -- is incorrect. The administrative record, the decision overpayment worksheet, and the subsequent April 20, 2021 (reference 06) decision correctly state that claimant received \$3,982.00 during this eleven-week period.

On January 12, 2021, Iowa Workforce Development (IWD) issued a decision (reference 01) that disqualified claimant from receiving regular unemployment insurance benefits. That decision has been modified in favor of claimant. See 21A-UI-03340-LJ-T. Under the administrative law judge's decision, benefits were withheld effective May 31, 2020, as claimant had reasonable assurance of continued employment in the coming academic year or term. See 21A-UI-03340-LJ-T. There is no record that claimant filed an appeal with the Employment Appeal Board.

The instant overpayment decision was mailed to claimant's last known address of record on April 13, 2021. Claimant did receive the decision within ten days. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by April 23, 2021. Claimant was confused, as she received multiple overpayment decisions around this time, as well as several fraudulent-looking documents purportedly from IWD. Claimant timely appealed the April 20, 2021 (reference 06) overpayment decision.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits this amount for the period in question.

Iowa Code § 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 not been overpaid regular unemployment insurance benefits in the amount of \$39.82 pursuant to Iowa Code § 96.3(7).

DECISION:

The April 13, 2021 (reference 03) decision is reversed. Claimant has not been overpaid regular unemployment insurance benefits in the amount of \$39.82.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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July 27, 2021
Decision Dated and Mailed

lj/scn