

IOWA DEPARTMENT OF INSPECTIONS & APPEALS  
DIVISION OF ADMINISTRATIVE HEARINGS  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 09-IWDUI-071  
**OC:** 01/20/08  
**Claimant:** Appellant (1)

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**CAROL S CHANTRILL**  
**4708 STEINBECK ST UNIT 206**  
**AMES IA 50014-8165**

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATION AND RECOVERY**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

DAN ANDERSON, IWD

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the Department . If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

April 28, 2009

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(Decision Dated & Mailed)

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Section 96.3-7 - Recovery of Overpayments

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development decision dated April 2, 2009, reference 03, which held that the claimant was overpaid unemployment benefits in the amount of \$1,798.00, because she incorrectly reported her wages earned with Precision Response for 12-weeks from July 6, 2008 to October 4, 2008..

After due notice was issued, a hearing was held by telephone conference call on April 27, 2009. The claimant did not participate. Iowa Workforce Development, Investigation and Recovery, participated by Cindy Stroud, Investigator.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having examined all of the evidence in the record, finds that: The claimant filed a claim for unemployment benefits with an effective date of January 20, 2008. The department audited the claim for the third quarter of 2008.

A Precision Response Inc. representative responded to the department by reporting the claimant's work and wages earned during a period from July 6, 2008 to October 4, 2008. The department compared the employer audit report against the claimant's claims for the same weeks. It determined the claimant was overpaid \$1,798. The claimant worked on average worked 45-50 hours per week, and had earnings ranging from a low of \$396 to a high of \$584 for some 13-weeks.

Investigator Stroud mailed the audit documentation to the claimant who questioned it on March 23, 2009. Stroud requested and obtained from claimant's employer a wage detail for the weeks at issue, and she revised the original audit. The revised audit did not affect the overpayment amount, and it was submitted to the claimant on March 30. The claimant did not dispute this audit.

The claimant called-in prior to the scheduled hearing, and left a recorded message that due to a job conflict she was not available to participate.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is overpaid benefits \$1,798.00.

#### **Iowa Code Section 96.3-7 provides:**

7. Recovery of overpayment of benefits. 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 division of job service 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 division a sum equal to the overpayment.

If the division 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 is overpaid benefits \$1,798.00 for the 12-week period ending October 4, 2008 pursuant to Iowa Code Section 96.3-7. The department investigator confirmed the overpayment amount by obtaining and comparing the employer wage detail against the claimant weeks claimed. The claimant did not dispute it though she filed an appeal. The department eliminated the week (week ending July 5<sup>th</sup>) questioned by the claimant.

#### DECISION:

The decision of the representative dated April 2, 2009, reference 03, is AFFIRMED. The claimant is

overpaid benefits \$1,798.00.

rls