

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
CLAIMANT Claimant	APPEAL NO. 08A-UI-02794-S2T
IOWA WORKFORCE DEVELOPMENT DEPARTMENT	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 02/10/08 R: 01 Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated March 20, 2008, reference 03, that concluded she was overpaid unemployment insurance benefits as a result of a disqualification decision. After hearing notices were mailed to the claimant's last-known addresses of record, a telephone hearing was held on April 7, 2008. The claimant participated personally.

The case contains material that is required by law to remain confidential as to the general public. The dependent adult abuse information provided in the hearing will only be made available to the parties to this proceeding and any others who are legally authorized to have access to the information pursuant to Iowa Code section 235B.6.

ISSUE:

The issue is whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a disqualification decision that has now been affirmed.

REASONING AND CONCLUSIONS OF LAW:

An administrative agency making a determination regarding an unemployment compensation claim pursuant to Iowa Code section 96.6 is authorized to have access to dependent adult abuse information in those cases where the abuse is founded. Iowa Code section 235B.6(2)d(4). However, the administrative agency is prohibited from re-disseminating the information to individuals who would not otherwise have independent access to the information under section 235B.6.

Appeal hearings and records of Workforce Development are public records within the meaning of the Iowa Open Records Act (Iowa Code Chapter 22), the Iowa Administrative Procedures Act (Iowa Code Chapter 17A), and the Iowa Employment Security Law (Iowa Code Chapter 96). Pursuant to Iowa Code section 22.2(1), every person has the right to examine and copy a public record and to publish or otherwise disseminate a public record or information contained therein. The provisions of Iowa Code section 17A.12(7) require that contested case proceedings be open to the public.

Unemployment appeals hearings are to be conducted pursuant to the provisions of Chapter 17A. Rules of Workforce Development require that administrative law judge decisions be maintained on file for public inspection. See 871 IAC 26.17(3).

The prohibition against re-disseminating dependent adult abuse information requires that the administrative law judge issue a determination that does not identify the parties. To do otherwise would necessarily involve re-dissemination of information required by law to remain confidential. A public decision shall be issued that does not identify the parties. A decision with identifying information will be issued to the parties. That decision and the hearing record, including the audio recording, shall be sealed and not publicly disclosed.

Regarding the substantive issue, for the following reasons, the administrative law judge concludes the claimant is overpaid unemployment insurance benefits.

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 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.

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 was overpaid unemployment insurance benefits pursuant to Iowa Code section 96.3-7, as the disqualification decision that created the overpayment decision has now been affirmed.

DECISION:

The decision of the representative dated March 20, 2008, reference 03, is affirmed. The claimant was overpaid unemployment insurance benefits in the amount of \$1,480.00.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw