

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JAY R KOESTER**  
Claimant

**APPEAL 19A-UI-09721-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 04/07/19**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Overpayment of Benefits  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On December 4, 2019, the claimant/appellant, Jay Koester, filed an appeal from the November 22, 2019 (reference 06) unemployment insurance decision which concluded the claimant was overpaid unemployment insurance benefits because he failed to accurately report earnings while receiving unemployment insurance benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 8, 2020. The claimant participated personally. Kendra Mills, Investigator II, participated on behalf of Iowa Workforce Development (IWD). IWD Exhibits 1 through 6 were received. Claimant's Exhibit A was received.

**ISSUES:**

Was the appeal timely?  
Was claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits with an effective date of April 7, 2019. Claimant's weekly benefit amount is \$467.00.

On October 7, 2019, claimant began working for Anderson Engineering in Minnesota. Claimant worked full-time hours and earned \$2,021.25 during the one week ending October 12, 2019. Claimant filed a claim for unemployment insurance benefits that week. Claimant attempted to report wages that week, but apparently was unsuccessful. Therefore, claimant received a full benefit payment of \$467.00.

Claimant moved to Minnesota for his new job. However, he did not update IWD with his new address even though each time he filed a weekly claim, he received a confirmation that appears, in relevant part, as follows:

As a claimant, you are responsible for updating any changes in your address or telephone number with Iowa Workforce Development. To

update your telephone number, you may use the "Update Telephone Number" option in the menu on the left side of this page. To update your address, please contact Customer Service at 1-866-239-0843 or email [uicclaimshelp@iwd.iowa.gov](mailto:uicclaimshelp@iwd.iowa.gov).<sup>1</sup>

After an investigation, on November 22, 2019, Iowa Workforce Development issued a decision finding claimant overpaid benefits in the amount of \$467.00 for the one week ending October 12, 2019. There was no finding claimant committed fraud and no penalty assessment was imposed.

IWD mailed the decision the same day it was issued. The decision warns that an appeal is due by December 2, 2019. Because claimant had provided IWD with his new address, his mail was forwarded and he did not receive the decision until after the deadline had passed, on December 4, 2019. Claimant filed an appeal the same day.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge finds that claimant's appeal should be accepted as timely.

Iowa Code § 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not have an opportunity to timely appeal the unemployment insurance decision because he did not receive the decision until after the appeal due date. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed the appeal the same day he received the decision. Therefore, the appeal shall be accepted as timely.

The administrative law judge further concludes IWD did correctly establish and calculate the claimant's overpayment of benefits.

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

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<sup>1</sup> <https://www.iowaworkforcedevelopment.gov/steps-responsibilities-file-unemployment-insurance-claim>

any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Here, claimant collected both wages and unemployment insurance benefits during the one week ending October 12, 2019. Based on the amount of wages claimant earned that week and based on the fact that he was not unemployed, claimant was not entitled to the benefit payment in the amount of \$467.00. Whether claimant attempted to report the wages in good faith is beside the point. The statute above states a claimant must repay an overpayment of benefits, even if the individual acted in good faith and was not otherwise at fault.

**DECISION:**

The November 22, 2019 (reference 06) unemployment insurance decision is affirmed. The appeal is timely. The claimant was overpaid benefits in the amount of \$467.00 for the one week ending October 12, 2019.



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Christine A. Louis  
Administrative Law Judge  
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January 23, 2020  
Decision Dated and Mailed

cal/scn