

IOWA DEPARTMENT OF INSPECTIONS & APPEALS  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 09-IWDUI-097  
**OC:** 06/08/08  
**Claimant:** Appellant (1)

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**MARIA SANCHEZ**  
**2552 SMITH AVE. TRAILER 45**  
**MARSHALLTOWN, IA 50158-8853**

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATIONS 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, 4th 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)

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June 9, 2009

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(Dated and Mailed)

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Iowa Code section 96.3-7 – Recovery of Overpayment of Benefits  
Iowa Code section 96.16-4 – Misrepresentation

**STATEMENT OF THE CASE**

Maria Sanchez filed an appeal from a decision issued by Iowa Workforce Development (IWD) dated May 7, 2009, reference 06. In that decision, IWD determined that Ms. Sanchez was overpaid \$827 in unemployment insurance benefits for the time period between July 13, 2008 and August 9, 2008. The decision also states that Ms. Sanchez overreported earnings, which resulted in an underpayment. The net overpayment asserted by IWD is \$622.

The case was transmitted from IWD to the Department of Inspections and Appeals on May 14, 2009 for scheduling of a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on May 19, 2009. The hearing was scheduled to take place on June 4, 2009 at 2:00 PM before Administrative Law Judge Laura Lockard. The notice provided instructions for each party to call in to participate in the telephone hearing. Ms. Sanchez did not call in at the date and time of hearing. Investigator Sally Oordt appeared on behalf of IWD and presented testimony. Exhibit A (pages 1 through 9), submitted by IWD, was admitted into the record.

### **ISSUES**

Whether IWD correctly determined that the claimant was overpaid unemployment insurance benefits.

Whether IWD correctly determined that an overpayment was the result of misrepresentation on the part of the claimant.

### **FINDINGS OF FACT**

Ms. Sanchez's original date of eligibility for unemployment insurance benefits was June 8, 2008. Ms. Sanchez was paid \$175 in unemployment benefits for the week ending July 5, 2008, and \$380 each week for the weeks ending July 12, July 19, July 26, August 2, August 9, August 16, August 23, August 30, and September 6, 2008.

IWD conducted a routine audit of Ms. Sanchez's unemployment claim for the third quarter of 2008. La Colonia Company reported that Ms. Sanchez had received earnings for employment performed from July 15 through August 8, 2009. IWD then compared the employer's report to Ms. Sanchez's claims for the same weeks.

For the week ending July 5, 2008, Ms. Sanchez reported having received \$300 in wages. IWD could not verify through wage records that Ms. Sanchez actually received any wages from employment that week. Without any wages that week, Ms. Sanchez would have been entitled to \$380 in unemployment benefits. Because she reported wages of \$300, Ms. Sanchez was paid only \$175 in unemployment benefits. IWD determined that Ms. Sanchez was underpaid for that week in the amount of \$205.

From July 15 through August 8, 2008, Ms. Sanchez was working for La Colonia Company in Marshalltown, Iowa doing rogueing and detasseling of corn. Ms. Sanchez was paid \$128 for the week ending July 19, 2008; \$336 for the week ending July 26, 2008; \$520 for the week ending August 2, 2008; and \$268 for the week ending August 9, 2008. Ms. Sanchez did not report any of these wages to IWD.

For each of the weeks that Ms. Sanchez was working for La Colonia, she received \$380 in unemployment benefits. Had she actually reported the wages she earned, she would have only been entitled to the following weekly amounts: \$347 for the week ending July 19; \$139 for the week ending July 26; \$0 for the week ending August 2; and \$207 for the week ending August 9.

IWD determined that Ms. Sanchez had been overpaid in the amount of \$827. IWD subtracted the amount of the underpayment for the week of July 5 from the overpayment to arrive at a net overpayment amount of \$622.

Investigator Sally Oordt mailed a letter to Ms. Sanchez dated April 8, 2009 informing her of the audit and offering her the opportunity to respond. Ms. Sanchez did not respond to the notice.

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

There are two issues to decide in this case. The first issue is whether the claimant was overpaid unemployment benefits. Second, if there was an overpayment, whether the overpayment was caused by misrepresentation on the part of the claimant.

#### **A. Overpayment**

Under Iowa law, if an individual receives unemployment insurance benefits for which he or she is subsequently determined to be ineligible, IWD can recover those benefits even if the individual acted in good faith and is not otherwise at fault. IWD may recover the overpayment of benefits by requesting payment from the individual directly or by deducting the overpayment from any future benefits payable to the overpaid claimant.<sup>1</sup>

The uncontested evidence shows that Ms. Sanchez was overpaid benefits in the total amount of \$827 during the weeks ending July 19, July 26, August 2, and August 9, 2008. Ms. Sanchez was underpaid in the amount of \$205 for the week ending July 5, 2008. This resulted in a net overpayment of \$622.

#### **B. Misrepresentation**

If a claimant is overpaid benefits as a result of misrepresentation, IWD may – in addition to recovering the overpayment through direct payment or deduction from future benefits – file a lien for the overpayment amount in favor of the state on the claimant's real or personal property and rights to property.<sup>2</sup>

The evidence in the case demonstrates that Ms. Sanchez failed to report earnings in each of the four weeks that she was working for La Colonia Company. The fact that Ms. Sanchez reported earnings of \$300 in a week where it appears she did not actually work certainly makes it appear that Ms. Sanchez may have had some confusion about the unemployment claims reporting process. However, it would be difficult to conclude that the failure to appear for multiple weeks was a result of simple error on Ms. Sanchez's part. Additionally, Ms. Sanchez failed to appear at the hearing to offer any explanation for the failure to report. Based on the evidence in the record, IWD's decision that the overpayment was the result of misrepresentation must be affirmed.

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<sup>1</sup> Iowa Code § 96.3(7)(a) (2009).

<sup>2</sup> 871 IAC 96.16(4).

**DECISION**

Iowa Workforce Development's decision dated May 7, 2009, reference 6, is AFFIRMED. The claimant has been overpaid benefits in the net amount of \$622 due to misrepresentation.

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