

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**KAREN L CARTER**  
Claimant

**APPEAL NO. 15A-UI-01393-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 10/19/14**  
**Claimant: Appellant (1)**

Iowa Code Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

Karen Carter filed a timely appeal from the January 21, 2015, reference 04, decision that she was overpaid \$416.00 in benefits for the week that ended October 25, 2014, based on an agency conclusion that she had received vacation pay or was entitled to receive vacation pay for that week that exceeded her weekly benefit amount. After due notice was issued, a hearing was held on February 26, 2015. Claimant participated. The hearing in this matter was consolidated with the hearing in Appeal Number 15A-UI-01392-JTT. Exhibits A through D and Department Exhibits D-1 and D-2 were received into evidence.

**ISSUE:**

Whether the claimant was overpaid \$416.00 in benefits for the week that ended October 25, 2014.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Karen Carter was employed by Iowa Physicians Clinic as a full-time Registered Nurse until October 15, 2014. Ms. Carter last performed for work the employer on that day. For the week that ended October 18, 2014, Ms. Carter worked 19.8 hours. Ms. Carter's hourly wage was \$21.00. Ms. Carter's regular wages for the week that ended October 18 were \$415.80. At the time Ms. Carter separated from the employment, she had accrued but not yet used 36.7 hours of vacation pay benefit. The gross value of that unused benefit was \$770.70. On October 24, 2014, the employer paid Ms. Carter her wages for the week that ended October 18, 2014. On November 7, 2014, the employer paid Ms. Carter the vacation pay amount.

Ms. Carter established a claim for unemployment insurance benefits that was effective October 19, 2014. Workforce Development Calculated Ms. Carter's weekly benefit amount at \$416.00. Ms. Carter received \$416.00 in benefits for the weeks ending October 25 and November 1, 2014. When Ms. Carter made her claim for the week that ended November 8, 2014, she reported a net vacation pay amount of \$671.00. Ms. Carter did not receive any

unemployment insurance benefits for that week. Ms. Carter received \$416.00 in weekly benefits for the 15 subsequent weeks.

On December 8, 2014, Iowa Workforce Development mailed a notice of claim to the employer. The notice of claim contained a December 18, 2014 deadline for the employer's response. Workforce Development received the employer's protest, on the notice of claim form, on December 11, 2014. The employer included information regarding the last week's wages as referenced above. The employer also included information concerning the vacation pay benefit as referenced above. The employer did not designate the period to which the vacation pay should be applied in determining Ms. Carter's unemployment insurance benefit eligibility. Workforce Development used the information provided by the employer to redetermine Ms. Carter's unemployment insurance benefit eligibility.

The initial disbursement of benefits to Ms. Carter did not occur until December 22, 2014, at which time several weeks of benefits were paid to Ms. Carter by direct deposit. These included \$416.00 in benefits for the week that ended October 25, 2014. That disbursement did not include any benefits for the week that ended November 8, 2014. That was the week during which Ms. Carter reported a net vacation pay amount. On January 20, 2015, the Agency took action on the vacation pay issue. The Agency concluded that Ms. Carter was not eligible for benefit for the week that ended October 25, 2014 and that the \$416.00 that had been disbursed for that week constituted an overpayment of benefits. The Agency also retroactively approved \$416.00 in benefits for the week that ended November 8, 2014. Again, that was the week during which Ms. Carter had reported the vacation amount. Though the Agency retroactively approved benefits for that week, the Agency "offset" the benefits for that week and used the \$416.00 in benefits that would otherwise have been disbursed for that week to recovery the \$416.00 in benefits that the Agency had concluded had been overpaid for the week ending October 25, 2014.

On January 21, 2015, an Iowa Workforce Development claims deputy entered a reference 03 decision that disqualified the claimant for benefits for the week that ended October 25, 2014 based on the vacation pay issue. That decision has been affirmed in Appeal Number 15A-UI-01392-JTT.

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

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, the claimant must repay the benefits and Workforce Development must recover the benefits, even if the claimant acted in good faith and was not at fault in receiving the benefits. Ms. Carter was not eligible for unemployment insurance benefits for the week that ended October 25, 2014 because she received vacation pay that was deductible from her unemployment insurance benefit eligibility for the week that ended October 25, 2014 and the vacation pay amount exceeded the unemployment insurance benefit amount. Accordingly, the \$416.00 in benefits that were disbursed to Ms. Carter for that week was an overpayment of benefits. The overpayment for the week that ended October 25, 2014 has been recovered through the offset of \$416.00 in benefits that would otherwise have been retroactively disbursed to Ms. Carter for the week that ended November 8, 2014.

**DECISION:**

The January 21, 2015, reference 04, decision is affirmed. The claimant was overpaid \$416.00 in benefits for the week that ended October 25, 2014. The overpayment has been recovered.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs