

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PRUDENCE P OLSON
Claimant

APPEAL NO. 10A-UI-02567-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/13/09
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated February 4, 2010, reference 04, that held she was overpaid benefits \$1,014.00 due to a department decision she is ineligible for benefits, because she failed to earn \$250.00 during or after her previous benefit year. A telephone hearing was held on March 31, 2010. The claimant participated.

ISSUE:

Whether the claimant is overpaid benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered the evidence in the record, finds that: The claimant was paid benefits in the amount of \$1,014 for a six-week period ending January 30, 2010 after filing her second benefit year claim on December 13, 2009. The department has collected the overpayment by offset procedure.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

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

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The administrative law judge concludes that the claimant is overpaid benefits \$1,014.00 because of the department decision she does not meet the earnings qualification requirement of \$250.00 of insured work since her prior claim. The decision has been affirmed (10A-UI-02566-ST).

The claimant acted in good faith when she filed the second benefit year claim and is without fault. However, the department is allowed to collect the overpayment in this matter.

DECISION:

The decision of the representative dated February 4, 2010, reference 04, is affirmed. The claimant is overpaid \$1,014.00. The overpayment has been repaid by offset procedure.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css