

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CYNTHIA R WASHINGTON**  
Claimant

**APPEAL 16R-UI-13834-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/01/16  
Claimant: Appellant (1)**

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Iowa Code § 96.6-2 – Timeliness of Appeal  
42 USC 503(G)1 – Withholding under an Inter-State Agreement  
20 CFR 616.8(e) -- Repayment

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the October 13, 2016, (reference 11) decision that denied notified her Iowa Workforce Development (IWD) would be withholding her unemployment insurance benefits to repay an overpayment she has in the state of Illinois. After due notice was issued, a hearing was held by telephone conference call on January 26, 2017. Claimant participated.

**ISSUE:**

Did the claimant file a timely appeal?

Can the claimant's Iowa benefits be withheld and transferred to the State of Illinois?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant did not have a mailing address from October 1 through October 27. She did not receive the decision notifying her that any benefits she might be entitled to would be sent to the state of Illinois where she has been overpaid unemployment insurance benefits in the amount of \$3738.75. Once the claimant learned of the decision, she filed an appeal. Iowa and Illinois have an inter-state agreement for recovery of benefits.

**REASONING AND CONCLUSIONS OF LAW**

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal as soon as she learned of the decision. Therefore, the appeal shall be accepted as timely.

The claimant is overpaid unemployment benefits in Illinois which has requested the recovery of those benefits from Iowa. Under 20 CFR 616.8(E) and 42 USC 503.G(1) the request was properly made for an interstate recovery of benefits and the claimant's benefits shall be withheld to offset the overpayment.

20 CFR 616.8(E) provides in relevant part:

(e) *Recovery of prior overpayments.* If there is an overpayment outstanding in a transferring State and such transferring State so requests, the overpayment shall be deducted from any benefits the paying State would otherwise pay to the claimant on his/her Combined-Wage Claim except to the extent prohibited by the law of the paying State. The paying State shall transmit the amount deducted to the transferring State or credit the deduction against the transferring State's required reimbursement under this arrangement. This paragraph shall apply to overpayments only if the transferring State certifies to the paying State that the determination of overpayment was made within 3 years before the Combined-Wage Claim was filed and that repayment by the claimant is legally required and enforceable against him/her under the law of the transferring State.

**DECISION:**

The representative's decision dated October 13, 2016, (reference 11), is affirmed. The claimant filed a timely appeal. The claimant's unemployment benefits may be withheld in order to offset the overpayment of unemployment benefits in Illinois.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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