

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN L DENNIS
Claimant

APPEAL NO. 11A-UI-00511-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 12/27/09
Claimant: Appellant (1)

Iowa Code Section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

Dawn Dennis filed an appeal from the May 20, 2011, reference 04, decision that she was overpaid \$10,374.00 for the 26 weeks that ended June 26, 2010 based on an Agency conclusion that she had not met the minimum earnings requirement to be eligible for benefits in a second benefit year. After due notice was issued, a hearing was held on June 15, 2011. Ms. Dennis participated. Exhibits A and B and Department Exhibits D-1 through D-9 were received into evidence. The hearing in this matter was consolidated with the hearing in Appeal Number 11A-EUCU-00510-JTT. The administrative law judge hereby takes official notice of the decision entered in that matter.

ISSUE:

Whether Ms. Dennis was overpaid \$10,374.00 for the 26 weeks that ended June 26, 2010.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Dawn Dennis established a claim for benefits that was effective December 28, 2008 and received benefits in connection with the claim. When the benefit year expired, Ms. Dennis established a new claim in the new benefit year that started for her on December 27, 2009. In connection with the claim year that was effective December 27, 2009, Ms. Dennis received benefits totaling \$10,374.00 for the period of December 27, 2009 through June 26, 2010. These benefits included \$9,724.00 in regular unemployment insurance benefits and \$650.00 in federal stimulus benefits. Ms. Dennis' eligibility for the \$25.00 weekly federal stimulus benefits was conditioned upon her being eligible for regular or extended unemployment insurance benefits for the same week. On April 21, 2011, a Workforce Development representative entered a reference 03 decision that denied benefits in the new claim year, based on the Agency conclusion that Ms. Dennis had not met the \$250.00 minimum earnings requirement to be eligible for benefits in a second claim year. The April 21, 2011, reference 03 decision was affirmed on appeal in Appeal Number 11A-EUCU-00510-JTT.

In connection with entering the May 20, 2011, reference 04, overpayment decision on appeal in this matter, the Agency determined that Ms. Dennis would be eligible for additional emergency

unemployment insurance benefits based on the earlier claim year that began December 28, 2008. The Agency off-set the additional extended benefits under the December 28, 2008 claim against the regular benefits paid on the December 27, 2009 claim to recover much of what the Agency concluded was an overpayment of benefits on the December 27, 2009.

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.

Because Ms. Dennis was not eligible for the benefits she received in connection with the second claim year that began December 27, 2009, the administrative law judge concludes that the \$10,374.00 in benefits she received for the 26 weeks that ended June 26, 2010 constitutes an overpayment of benefits. All but \$2,124.00 has been recovered through an off-setting of 22 weeks of extended benefits that would otherwise have been paid out in connection with the earlier claim year. The overpayment amount includes \$650.00 in federal stimulus benefits paid out in connection with the December 27, 2009 claim. The administrative law judge notes that on May 26, 2011, the Agency disbursed \$550.00 to Ms. Dennis. This was based on the 22 weeks of additional extended benefits from the December 28, 2008 claim. The balance due on the December 27, 2009 through June 26, 2010 overpayment remains \$2,124.00.

DECISION:

The Agency representative's May 20, 2011, reference 04, overpayment decision is affirmed. The claimant was overpaid \$10,374.00 for the 26 weeks that ended June 26, 2010. The balance due on the December 27, 2009 through June 26, 2010 overpayment remains \$2,124.00.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs