

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK J WIERSCHKE**  
Claimant

**APPEAL NO. 10A-EUCU-00672-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 10/19/08  
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The claimant appealed a representative's July 30, 2010 decision (reference 06) that held he had been overpaid \$5,790.00 in Emergency Unemployment Compensation benefits that he received for the weeks ending January 9 through April 17, 2010. The overpayment was based on a July 23, 2010 decision that held he was not eligible to receive Emergency Unemployment Compensation benefits as of January 3, 2010, because he was eligible to receive regular unemployment insurance benefits. A telephone hearing was held on September 18, 2010. The claimant participated in the hearing. Based on the administrative record, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Has the claimant been overpaid \$5,790.00 in Emergency Unemployment Compensation benefits?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of October 19, 2008. He filed for and received Emergency Unemployment Compensation benefits for the weeks ending January 9 through April 17, 2010. He received a total of \$5,415.00 in Emergency Unemployment Compensation benefits for these weeks. He received an additional \$25.00 each of these 15 weeks for total of \$375.00 from the government's economic stimulus program.

The claimant relied on his local Workforce representatives' expertise to make sure he received benefits correctly. The claimant appealed the July 23, 2010 decision that held him ineligible to receive Emergency Compensation benefits as of January 3, 2010. This decision has been affirmed. See decision for appeal 10A-EUCU-00671-DWT.

**REASONING AND CONCLUSIONS OF LAW:**

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the

overpayment. Iowa Code § 96.3-7. Based on the decision for appeal 10A-EUCU-00672-DWT, the claimant is not legally entitled to receive Emergency Unemployment Compensation benefits for the weeks ending January 9 through April 17, 2010.

Although the claimant is **NOT** at fault in receiving the benefits, he has been overpaid and must repay a total of \$5,790.00 in Emergency Unemployment Compensation benefits that he was not legally entitled to receive. As the result of offsets from benefits the claimant was legally entitled to receive, the claimant currently has an overpayment balance of \$1,483.86.

**DECISION:**

The representative's July 30, 2010 decision (reference 06) is affirmed. The claimant was not legally entitled to receive Emergency Unemployment Compensation benefits that he received for the weeks ending January 9 through April 17, 2010. He has been overpaid and must repay a total of \$5,790.00. This overpayment has been reduced by benefits he was legally entitled to receive for these weeks and through offsets from subsequent weeks. As of the date of this decision, the claimant has an outstanding overpayment balance of \$1,483.86.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw