

IOWA DEPARTMENT OF INSPECTIONS AND
APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

SARAH OLIVER
1122 ROUTE 35 NORTH
EAST DUBUQUE, IL 61025

IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS AND RECOVERY
JANE CONNOR

TERESA HILLARY, IWD

Appeal Number: 14IWDUI215

OC: 8/25/13

Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

August 29, 2014

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Sarah Oliver filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated July 11, 2014 (reference 01). In this decision, the Department determined that Oliver was overpaid \$324 in unemployment insurance benefits for nine weeks between September 1 and November 2, 2013. The decision states that the overpayment is a result of failure to report wages earned with East Dubuque School.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on July 29, 2014 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on July 31, 2014. On August 28, 2014, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Jane Connor represented the Department and provided testimony. Appellant Sarah Oliver appeared and presented testimony.

ISSUE

Whether the Department correctly determined that the Appellant was overpaid unemployment insurance benefits and, if so, whether the overpayment was correctly calculated.¹

FINDINGS OF FACT

Sarah Oliver filed a claim for unemployment insurance benefits with an effective date of August 25, 2013. Oliver made claims for and received unemployment benefits during parts of the third and fourth quarters of 2013. Oliver's weekly benefit amount during that time period was \$424. (Exh. B, D).

At some point, the Department received information that Oliver worked for the East Dubuque School District from August through November, 2013. The Department requested information from the school district. In response, the district's superintendent provided a letter stating that Oliver was employed as a freshman volleyball coach during the fall season, which ran from August 14 through October 30, 2013. The letter stated that Oliver was paid a one-time stipend of \$1,707.60 at the conclusion of the season. Dividing the amount of the stipend by the number of weeks in the season, 12, yields a weekly wage amount of \$142. (Exh. F; Connor testimony).

Oliver made a claim for unemployment insurance benefits during each of the twelve weeks that she was working for the East Dubuque School District. During each of those weeks, she reported that she did not earn any wages and received her full weekly benefit amount of \$424. Using the earned income figure of \$142 per week, the Department asserts that Oliver should only have received \$388 in benefits during each of those weeks. Based on the foregoing, the Department determined that Oliver was overpaid \$36 per week, for a total overpayment of \$324. (Exh. D; Connor testimony).

When Oliver began working for the East Dubuque School District as a volleyball coach, she was not aware that the position was paid. At some point, the head coach informed her of this fact, but Oliver was not paid until after the conclusion of the season. (Oliver testimony).

REASONING AND CONCLUSIONS OF LAW

Under Iowa law, if an individual receives unemployment insurance benefits for which he or she is subsequently determined to be ineligible, the Department must recover those benefits even if the individual acted in good faith and is not otherwise at fault. The Department may recover the overpayment of benefits by requesting payment from the

¹ The Department certified an additional issue when the case was transmitted for hearing: whether the Department correctly determined that the overpayment was a result of misrepresentation. The decision under appeal, however, does not conclude that the overpayment was a result of misrepresentation. Connor confirmed at hearing that the Department is not asserting that the overpayment was a result of misrepresentation.

individual directly or by deducting the overpayment from any future benefits payable to the overpaid claimant.²

The evidence in this case supports the Department's conclusion that Oliver earned wages that she did not report during the weeks in question. Oliver does not dispute the earnings the Department alleges, nor does she dispute the Department's calculation of the overpayment. While Oliver was not paid until the end of the volleyball season, wages are calculated for the week they are earned, not the week they are paid.³

An individual who is partially unemployed may receive unemployment insurance benefits if she is working less than her normal full-time week for an employer and is earning less than her weekly benefit amount plus fifteen dollars.⁴ Oliver, then, could have earned up to \$439 in a week and still received some amount of unemployment benefits. If a claimant earns less than the weekly benefit amount plus \$15, benefits are calculated as follows: weekly benefit amount minus the claimant's wages in the week that exceed 25% of the weekly benefit amount.⁵ Using this formula, during each of the weeks in question Oliver was entitled to receive \$388 in unemployment insurance benefits. Under these circumstances, the Department correctly concluded that Oliver was overpaid unemployment insurance benefits in the amount of \$324.

DECISION

Iowa Workforce Development's decision dated July 11, 2014, reference 01, is **AFFIRMED**. The claimant has been overpaid benefits in the amount of \$324.

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² Iowa Code § 96.3(7)(a) (2011).

³ See 871 Iowa Administrative Code (IAC) 24.2(1)(g)(2).

⁴ Iowa Code § 96.19(38)(b)(1) (2011).

⁵ 871 IAC 24.18.