

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOLEEN J POST
Claimant

APPEAL NO. 12A-UI-02304-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/26/10
Claimant: Appellant (1-R)**

Section 96.3-7 – Recovery of Overpayments
871 IAC 24.50(7) – Waiver of Overpayment

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 2, 2012, reference 10, that concluded she was overpaid \$5,471.00 in EUC benefits. The claimant participated in the hearing.

ISSUES:

Was the claimant overpaid \$5,471.00 in EUC benefits from October 2, 2011, through February 11, 2012?
Should the Agency waive recovery of the overpayment?

FINDINGS OF FACT:

The claimant filed a claim for benefits effective September 26, 2010. She filed for and received \$5,471.00 in EUC benefits from October 2, 2011, through February 11, 2012 as shown in the table below.

Week Ending	EUC	Week Ending	EUC	Week Ending	EUC	Week Ending	EUC	Week Ending	EUC
10/08/11	\$358	11/05/11	\$351	12/10/11	\$351	01/07/12	\$351	02/04/12	\$231
10/15/11	\$255	11/12/11	\$246	12/17/11	\$297	01/14/12	\$358	02/11/12	\$351
10/22/11	\$358	11/19/11	\$358	12/24/11	\$351	01/21/12	\$255		
10/29/11	\$159	12/03/11	\$358	12/31/11	\$228	01/28/12	\$255	Total	\$5,471

The claimant received these benefits initially because the Agency did not require the claimant to file a new claim for benefits effective October 2, 2011, to see if she was eligible for regular unemployment benefits. She continued to receive the benefits because the Agency erroneously determined she had the option to receive EUC benefits from her second benefit year claim before exhausting the regular benefits available on her third benefit year claim.

The unemployment insurance decision that disqualified the claimant from receiving EUC benefits effective October 2, 2011, has been affirmed in a decision of the administrative law

judge in appeal 12A-UI-02233-SWT. The erroneous payment of benefits was due to an Agency error and was not due to any fault by the claimant.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid EUC and should those benefits be recovered.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits. Iowa Code § 96.3-7.

Since the decision disqualifying the claimant has been affirmed, she was overpaid \$5,471.00 in EUC benefits from October 2, 2011, through February 11, 2012.

Recovery of an overpayment of EUC benefits may be waived under some circumstances. See 871 IAC 24.50(7). In determining if an overpayment should be waived, the Agency must consider whether the claimant was at fault for the overpayment and whether repayment would be contrary to equity and good conscience. The issue of whether the overpayment should be waived is remanded to the Agency. In considering whether to grant a waiver, the agency shall consider that the overpayment was not the claimant's fault and was the result of an Agency error. The Agency shall also consider whether repayment would be contrary to equity and good conscience under the facts here. My decision in 12A-UI-02233-SWT shows the claimant relied on the Agency's representation that she was entitled to EUC benefits and was just following instructions she was given.

DECISION:

The unemployment insurance decision dated March 2, 2012, reference 10, is affirmed. The claimant was overpaid \$5,471.00 in EUC benefits. The matter of determining whether the claimant's overpayment should be waived is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs