

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARBARA H COBORN

Claimant

APPEAL NO. 13A-UI-06720-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/22/12

Claimant: Appellant (1-R)

Section 96.3-7 - Recovery of Overpayment of Benefits
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

Barbara Coburn appealed an unemployment insurance decision dated May 3, 2013, reference 03, that she was overpaid \$4,569.50. A telephone hearing was held on July 10, 2013. Coburn participated in the hearing. After the hearing, she sent determinations from the state of Illinois dated May 2, May 22, June 3, June 11, and June 13, 2013. Those documents will be admitted into evidence as Exhibit A. Official notice is taken of the Agency's records regarding the Coburn's unemployment insurance claim, which show she currently has a claim in effect in Illinois effective January 27, 2013, and has received benefit payments on that claim. They also showed that as of July 10, the State of Illinois reported the claimant had an overpayment of \$4,569.50 and on August 6, 2013, that overpayment was reduced to \$736.50. The State of Iowa records, however, still show the overpayment balance as \$4,569.50. If Coburn objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

Was Barbara Coborn overpaid benefits?

FINDINGS OF FACT:

Barbara Coborn filed a new claim for unemployment insurance benefits with an effective date of July 22, 2012. She received the maximum regular benefits available on that claim during the week ending January 26, 2013.

She filed for and began receiving EUC benefits effective January 27, 2013. She continued receiving EUC benefits through the week ending April 20, 2013. The total of the EUC benefits was \$4,569.50.

The unemployment insurance decision that concluded Coborn was ineligible for EUC benefits effective January 27, 2013, has been affirmed in a decision in appeal 13A-UI-06719-SWT.

An unemployment insurance decision was mailed to the Coborn's last-known address of record on May 3, 2013. The decision concluded she was overpaid \$4,569.50 in EUC because she was eligible for benefits in Illinois and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by May 13, 2013.

Coborn received the decision within the ten-day period for appealing the decision. She filed a written appeal on June 4, 2013, which is after the period for appealing had expired. She delayed in filing her appeal because she was led to believe from employees of Illinois Department of Employment Security that she would be receiving benefits through Illinois, which would eliminate the need for the appeal. She appealed when she began receiving multiple decisions that she was not eligible for benefits in Illinois, and no one could explain what the problem was.

Agency records also showed that as of July 10, the State of Illinois reported the claimant had an EUC balance of \$3,843.00 and overpayment of \$4,569.50 and on August 6, 2013, that overpayment was reduced to \$736.50. The State of Iowa records, however, still show the overpayment balance as \$4,569.50.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant filed a timely appeal. The unemployment insurance law states that a decision is final if it is not appealed within ten days after the decision is mailed to the party's last known address. Iowa Code § 96.6-2: A failure to file a timely appeal is excused if it is due to an Agency error or misinformation or delay or other action of the United States Postal Service. 871 IAC 24.35(2).

I conclude that the claimant's appeal should be deemed timely because she was led to believe from employees of Illinois Department of Employment Security that she would be receiving benefits through Illinois but then started receiving contrary decisions.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7.

Since the decision disqualifying the claimant has been affirmed, she was overpaid \$4,569.50 in EUC benefits from January 27 through April 20, 2013.

Agency records also show that as of July 10, the State of Illinois reported the claimant had an EUC balance of \$3,843.00 and overpayment of \$4,569.50 and on August 6, 2013, that overpayment was reduced to \$736.50. The State of Iowa records, however, still show the overpayment balance as \$4,569.50. This would suggest that the state of Illinois had recouped part of the overpayment but this has not been applied to the overpayment in Iowa yet. A remand to investigate whether the claimant's overpayment should be reduced is necessary.

In addition, 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.

DECISION:

The unemployment insurance decision dated May 3, 2013, reference 03, is affirmed. She was overpaid \$4,569.50 in EUC benefits from January 27 through April 20, 2013. The case is remanded to investigate whether the claimant's overpayment should be reduced to reflect recoupment by the state of Illinois and whether the overpayment should be waived.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css