

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA A SKARIN
Claimant

APPEAL NO: 14A-UI-05848-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 04/07/13
Claimant: Appellant (6)

Iowa Code § 96.6(3) – Final Decision

PROCEDURAL STATEMENT OF THE CASE:

When the claimant appealed, a copy of a representative's May 27, 2014 (reference 01) determination was attached to her appeal. The Appeals Bureau concluded the claimant was appealing this determination that held her ineligible to receive benefits as of May 4, 2014 because she was not considered partially unemployed. A hearing was held on June 30, 2014.

After the employer presented testimony regarding the issues that had to be addressed for this determination, the claimant clarified that she had not appealed this determination. Instead, she intended, or wanted, to appeal a May 16, 2014 (reference 04) determination that held her overpaid \$585.00 for benefits she received between January 5 and February 15, 2014. As a result of this clarification, the administrative law judge did not take any more evidence concerning the May 27, 2014 determination and told the claimant another hearing would be scheduled on the overpayment issue.

After looking into the overpayment determination the administrative law judge discovered another administration law judge had already decided the overpayment issues for these weeks. See decision for Appeal No. 14A-UI-01307-NT. This decision was issued on February 28, 2014. The claimant appealed this decision to the Employment Appeal Board. The Employment Appeal Board affirmed the administrative law judge's decision on April 28, 2014. See decision for 14B-UI-01307. Since this overpayment decision has already been addressed by another administrative law judge and that decision was affirmed by the Employment Appeal Board, the Benefits Bureau had no legal authority to issue the May 16, 2014 (reference 04) determination. The claimant had to appeal the Employment Appeal Board's decision to reverse the overpayment decision. She did not do this. A hearing cannot be scheduled for the overpayment issue that has already been decided and not appealed to District Court.

ISSUE:

Did the Benefits Bureau have any legal authority to issue the May 16, 2014 overpayment determination that gave the claimant new appeal rights?

FINDINGS OF FACT:

In the decision for Appeal No. 14A-UI-01307-NT the administrative law judge decided, "The claimant has been overpaid unemployment insurance benefits in the amount of \$585.00 and is liable to repay that amount." The overpayment occurred because the administrative law judge decided the claimant was not eligible to receive partial benefits as of January 5, 2014. The claimant appealed the administrative law judge's decision to the Employment Appeal Board.

On April 28, 2014, the Employment Appeal Board affirmed the decision for Appeal No. 14A-UI-01307-NT. The Employment Appeal Board decision stated, "This decision becomes final unless (1) a request for rehearing is filed with the Employment Appeal Board within 20 days of the date of the Board's decision, or, (2) a Petition to District Court is filed within 30 days of the date of the Board's decision." The record does not indicate the claimant did anything.

On May 16, 2014 the Benefits Bureau issued a determination that again held the claimant overpaid \$585.00 in benefits she received between January 5 and February 15, 2014. The overpayment occurred as a result of the administrative law judge's February 28 decision. This determination gave the claimant new appeal rights. The May 16, 2014 determination is what the claimant wanted or intended to appeal because she does not want to pay back any benefits.

REASONING AND CONCLUSIONS OF LAW:

A decision of the appeal board is final Agency action and an appeal of this decision shall be made directly to district court. Iowa Code § 96.6(3). The Benefits Bureau did not have any legal authority to issue the May 16, 2014 (reference 04) determination and give the claimant new appeal rights. The claimant's only legal recourse was to appeal the overpayment decision to District Court.

Since the Employment Appeal Board's decision for 14B-UI-01307 is the final decision for the department, the Appeal Bureau cannot set up a hearing on the overpayment determination that should not have been issued.

DECISION:

The representative's May 16, 2014 (reference 04) determination is dismissed. The Department had no legal authority to issue the May 16 determination and attempt to give the claimant new appeal rights. The Employment Appeal Board's decision, 14B-UI-01307, is the final Department decision in this matter. This decision held the claimant overpaid \$585.00 in benefits and that she was responsible for paying back this amount.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

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