

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MUAHIB S MAGOK
Claimant

APPEAL NO. 09A-UI-14778-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/07/09
Claimant: Appellant (1)

Iowa Code Section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

Muahib Magok filed a timely appeal from the September 23, 2009, reference 03, decision that concluded she had been overpaid unemployment insurance benefits in the amount of \$739.00 for the three-week period ending August 12, 2009 as a result of an Agency conclusion that she was not able and available for work during that period. After due notice was issued, a hearing was held on October 30, 2009. Ms. Magok participated. Arabic-English Interpreter Magdy Salama assisted with the hearing. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant. The administrative law judge took official notice of the administrative law judge decision entered on August 12, 2009 in Appeal Number 09A-UI-10643-NT.

ISSUE:

Whether Ms. Magok was overpaid unemployment insurance benefits in the amount of \$739.00 for the three-week period ending August 12, 2009

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Muahib Magok established a claim for unemployment insurance benefits that was effective June 7, 2009 and received benefits. During the three-week period of June 21 through July 11, 2009, Ms. Magok received \$664.00 in regular unemployment insurance benefits. For the same period, Ms. Magok received an additional \$75.00 in federal stimulus benefits. Ms. Magok's eligibility for the federal stimulus benefits was contingent upon her being eligible for the regular benefits.

The overpayment at issue in this matter was prompted by the administrative law judge decision entered on August 12, 2009 in Appeal Number 09A-UI-10643-NT. That decision concluded that Ms. Magok was not able to work and available for work effective June 22, 2009 in connection with a medical leave of absence expected to end on August 27, 2009. The administrative law judge notes that Ms. Magok participated in the August 11, 2009 appeal hearing that led to the decision denying benefits and that Ms. Magok was the sole witness at the hearing. Ms. Magok did not appeal the August 12, 2009 decision and it became a final Agency decision.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Ms. Magok received unemployment insurance benefits in the amount of \$739.00 for the three-week period ending August 12, 2009. Ms. Magok was not eligible for benefits at that time. Accordingly, the benefits Ms. Magok received for that period constitute an overpayment of benefits that Ms. Magok must repay to Iowa Workforce Development.

DECISION:

The September 23, 2009, reference 03 overpayment decision is affirmed. The claimant was overpaid unemployment insurance benefits in the amount of \$739.00 for the three-week period ending August 12, 2009.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css