

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PATRICIA B HOLDEN
Claimant

APPEAL 19A-UI-06099-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/30/18
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On July 31, 2019, the claimant filed an appeal from the July 31, 2019, (reference 07) unemployment insurance decision that found her overpaid unemployment insurance benefits based on the removal of a dependent from her claim. The parties were properly notified about the hearing. A telephone hearing was held on August 26, 2019. Claimant participated. Quality control auditor II, Lisa Stielow, with the Integrity Bureau of Iowa Workforce Development participated on behalf of the agency. Iowa Workforce Development's Exhibits A through D were received.

ISSUE:

Has the claimant been overpaid unemployment insurance benefits for the period in question?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's last day of work with her former employer was December 31, 2018. On approximately January 1, 2019, claimant filed a claim for unemployment insurance benefits. The effective date of the claim is December 30, 2018.

The claimant was informed of the unemployment insurance rules, when she established her claim for unemployment insurance benefits and upon receipt of the claimant handbook. The Unemployment Insurance Handbook included instructions for properly filing claims, including claiming dependents. The relevant section states as follows:

DEPENDENTS

The number of dependents is used to help determine your weekly benefit amount and maximum benefit amount. Adding dependents will increase your weekly benefit amount and may increase your maximum benefit amount. A dependent is any individual who was claimed on the prior year's income tax return. A claim may include a maximum of four dependents. Dependents can only be added within 10 days of filing your initial

claim. A spouse may be considered a dependent if they earned \$120 or less in wages (excluding self-employment) during the week before the claim effective date.

Dependents cannot be:

- Yourself
- Any person already listed on another non-expired claim
- A spouse who listed you on their non-expired claim

Dependents claimed incorrectly may result in an overpayment and may be reviewed by the fraud investigations team.

Claimant listed her son as a dependent when she filed her claim for unemployment insurance benefits. Claimant did not list her son as a dependent on her 2017 income tax return. Claimant planned to list her son as a dependent on her 2018 income tax return.

On January 3, 2019, Iowa Workforce Development issued a monetary determination finding claimant eligible for benefits. Claimant's weekly benefit amount was \$485.00 and her maximum benefit amount was \$12,610.00. Claimant began collecting benefits.

In June 2019, claimant's claim for unemployment insurance benefits was selected by the United States Department of Labor to be audited by the Integrity Bureau of Iowa Workforce Development. Quality control auditor II Lisa Stielow was assigned to the case.

On June 10, 2019, Stielow made a request to the Iowa Department of Revenue, Tax Management Division for information regarding claimant's 2017 tax return. The Iowa Department of Revenue reported that claimant claimed zero dependents on her 2017 income tax return.

On June 19, 2019, Stielow interviewed claimant by telephone and questioned claimant regarding her claim of one dependent on her claim for unemployment insurance benefits. Claimant disclosed that the dependent in question was her son and that she did not claim him as a dependent on her 2017 tax return, but that she would be claiming him as a dependent on her 2018 tax return.

On July 19, 2019, Iowa Workforce Development issued a reference 05 decision removing one dependent from claimant's claim for unemployment insurance benefits. Claimant appealed this decision and it was affirmed in Appeal Number 19A-UI-06098-CL-T.

On July 22, 2019, Iowa Workforce Development issued a corrected monetary determination for claimant, listing zero dependents. The monetary determination reduced claimant's weekly benefit amount to \$467.00 and her maximum benefit amount to \$12,142.00.

Iowa Workforce Development distributed benefits to claimant using an incorrect weekly benefit amount. After the weekly benefit amount was corrected, Iowa Workforce Development issued a decision finding claimant overpaid benefits by \$478.00 based on the following information:

	Wages Reported By	UI Benefits		
Week Ending	Claimant	Amount Paid	Entitled	Overpayment
01/05/19	\$196.00	\$410.00	\$387.00	\$23.00
01/12/19		\$485.00	\$467.00	\$18.00
01/19/19		\$485.00	\$467.00	\$18.00
01/26/19		\$485.00	\$467.00	\$18.00
02/02/19		\$485.00	\$467.00	\$18.00
02/09/19		\$485.00	\$467.00	\$18.00
02/16/19		\$485.00	\$467.00	\$18.00
02/23/19		\$485.00	\$467.00	\$18.00
03/02/19	\$95.00	\$485.00	\$467.00	\$18.00
03/09/19	\$102.00	\$485.00	\$467.00	\$18.00
03/16/19	\$68.00	\$485.00	\$467.00	\$18.00
03/23/19		\$485.00	\$467.00	\$18.00
03/30/19	\$101.00	\$485.00	\$467.00	\$18.00
04/06/19	\$98.00	\$485.00	\$467.00	\$18.00
04/13/19	\$102.00	\$485.00	\$467.00	\$18.00
04/20/19	\$67.00	\$485.00	\$467.00	\$18.00
05/11/19	\$102.00	\$485.00	\$467.00	\$18.00
05/18/19	\$128.00	\$478.00	\$455.00	\$23.00
05/25/19	\$68.00	\$485.00	\$467.00	\$18.00
06/01/19	\$68.00	\$485.00	\$467.00	\$18.00
06/08/19	\$102.00	\$485.00	\$467.00	\$18.00
06/15/19	\$100.00	\$485.00	\$467.00	\$18.00
06/22/19	\$103.00	\$485.00	\$467.00	\$18.00
06/29/19	\$105.00	\$485.00	\$467.00	\$18.00
07/06/19	\$105.00	\$485.00	\$467.00	\$18.00
07/13/19	\$105.00	\$485.00	\$467.00	\$18.00
				\$478.00

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

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 § 96.8, subsection 5. . . .

The administrative law judge concludes that the claimant received benefits at a higher amount than she was entitled due to a dependent incorrectly being listed on her claim. Iowa Workforce Development correctly removed the dependent from the claim, which reduced claimant's weekly benefit amount. Claimant was overpaid unemployment insurance benefits in the amount of \$478.00 pursuant to Iowa Code § 96.3(7) as she was not eligible for benefits at the higher weekly benefit amount listed on the January 3, 2019, monetary determination.

DECISION:

The July 31, 2019, (reference 07) unemployment insurance decision is affirmed. Claimant was overpaid benefits in the amount of \$478.00 because of the removal of a dependent from her claim.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn