

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEREMY L ENGEMAN**  
Claimant

**APPEAL NO. 12A-UI-01707-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IA DEPT OF CORRECTIONS/FT MADISON**  
Employer

**OC: 02/07/10**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Claimant appealed a representative's decision dated February 6, 2012, reference 01, that concluded claimant was overpaid unemployment insurance as a result of back pay receipt. A hearing was scheduled and held on March 8, 2012 pursuant to due notice. Claimant did participate. Employer failed to respond to the hearing notice and did not participate.

**ISSUE:**

The issue is whether claimant is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by the receipt of back pay. Claimant is overpaid \$5,376.00 for the 12 weeks ending May 1, 2010 due to the receipt of back pay. The amount of \$5,076.00 has been repaid. An amount of \$300.00 shows as a remaining overpayment. The amount is the result of \$25.00 per week in economic stimulus payments. The DBIN screen does not show the nature of the extra \$300.00 overpayment. The OVPY screen was examined after the hearing which explains that the overpayment was an extra \$25.00 per week for 12 weeks. Claimant does not believe that he was paid the extra \$300.00.

**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.

The administrative law judge concludes that claimant is overpaid unemployment insurance benefits in the amount of \$5,376.00 for the 12 weeks ending May 1, 2010, pursuant to Iowa Code section 96.3-7 as the claimant has received back pay for the period in question. The amount of \$5,076.00 has been recovered. The additional \$300.00 overpayment was from economic stimulus money. Claimant may submit proof within 15 days that he did not receive the extra money by means of electronic deposit and ask for a reopening of the record. Claimant may appeal to the Employment Appeal Board on the issue. The overpayment remains as ordered absent proof that said monies were not deposited into claimant's account. Claimant should immediately examine bank records to determine whether he received \$448.00 per week instead of \$423.00 per week.

**DECISION:**

The decision of the representative dated February 6, 2012, reference 01, is affirmed. Claimant is overpaid unemployment insurance benefits in the amount of \$5,376.00.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/css