

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDY M INGALLS

Claimant

APPEAL NO. 12A-UI-11857-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/24/12
Claimant: Appellant (1)**

Iowa Code Section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

Judy Ingalls filed an appeal from the September 25, 2012, reference 03, decision that said she was overpaid \$1,128.00 in benefits for the four weeks ending July 21, 2012. After due notice was issued, a hearing was held on October 29, 2012. The hearing in this matter was consolidated with the hearing in Appeal Number 12A-UI-11856-JTT. Ms. Ingalls participated. Department Exhibits D-1, D-2, and D-3 were received into evidence.

ISSUE:

Whether Ms. Ingalls was overpaid \$1,128.00 in benefits for the four weeks ending July 21, 2012. She was.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Judy Ingalls established a claim for unemployment insurance benefits that was effective June 24, 2012 and received \$1,128.00 in benefits for the four-week period of June 24, 2012 through July 21, 2012. On July 27, 2012, an Iowa Workforce Development representative entered reference 02, decision that denied benefits effective June 24, 2012, based on an agency conclusion that Ms. Ingalls was subject to the between academic terms disqualification decision in Iowa Code section 96.4(5). That decision became a final agency decision when Ms. Ingalls did not file a timely appeal from the decision. Appeal Number 12A-UI-11856-JTT. The overpayment decision at issue in this matter was prompted by the July 27, 2012, reference 02 disqualification 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.

Because Ms. Ingalls received the benefits in question and because Ms. Ingalls was later deemed ineligible for the benefits she received, the administrative law judge must conclude that Ms. Ingalls was overpaid \$1,128.00 in benefits for the four weeks ending July 21, 2012. Ms. Ingalls must repay that amount.

DECISION:

The Agency representative's September 25, 2012, reference 03, decision is affirmed. The claimant was overpaid \$1,128.00 in benefits for the four weeks ending July 21, 2012. The claimant must repay that amount.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs