

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JILL HEISTERKAMP**  
Claimant

**APPEAL 16A-UI-08440-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 05/08/16  
Claimant: Appellant (2)**

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Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Jill Heisterkamp (claimant) appealed an unemployment insurance decision dated July 21, 2016 (reference 04) that concluded she was overpaid \$2,586.00 in unemployment insurance benefits. A telephone hearing was held on August 22, 2016. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing. Claimant's Exhibits A through C were received. Department's Exhibits D-1 and D-2 were received. Based on the evidence, the arguments of the claimant, and the law, the following findings of fact, reasoning and conclusions of law, and decision are entered.

**ISSUES:**

Is the appeal timely?

Has the claimant been overpaid benefits?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 8, 2016. The claimant filed for and received a total of \$2,586.00 in unemployment insurance benefits for the weeks between May 8, 2016 and June 25, 2016.

The fact-finder found the claimant had been overpaid for six weeks because she failed to report her vacation pay. However, the same fact-finder found the claimant's vacation should only be counted for one week in the decision dated July 21, 2016 (reference 02) and found the claimant was denied benefits for six weeks due to severance pay in the decision dated July 21, 2016 (reference 03). The unemployment insurance decisions that disqualified the claimant from receiving unemployment insurance benefits has been modified with no change in effect and reversed in decisions by the administrative law judge in appeals 16A-UI-08438 and 16A-UI-08439.

The decision finding the claimant had been overpaid benefits was mailed on July 21, 2016 to her last known address. However, the claimant was traveling between July 9, 2016 and August 1, 2016 visiting family and expanding her job search to other locales. Her mail was held at the post office until she retrieved it on August 2, 2016. The claimant filed her appeal to the decisions the following day.

**REASONING AND CONCLUSIONS OF LAW:**

*Is the appeal timely?*

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely.

The parties have ten days from the date of fact-finder's decision allowing or denying benefits to appeal it. See Iowa Code § 96.6(2). In this case, the claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the overpayment decision. Therefore, the appeal shall be accepted as timely.

*Has the claimant been overpaid benefits?*

For the reasons that follow, the administrative law judge concludes the claimant was not 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.

Since the decisions disqualifying the claimant have been modified with no change in effect and reversed, the claimant was not overpaid \$2,586.00 in unemployment insurance benefits.

**DECISION:**

The unemployment insurance decision dated July 21, 2016 (reference 04) is reversed. The claimant was not overpaid \$2,586.00 in unemployment insurance benefits.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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