

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EPHREM G HAGOS
Claimant

APPEAL 18A-UI-06101-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 02/25/18
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 18, 2018, (reference 06), unemployment insurance decision that found claimant overpaid unemployment insurance benefits in the amount of \$3,640.00 for the eight weeks ending April 21, 2018. After due notice was issued, a telephone conference hearing was scheduled to be held on June 19, 2018. Claimant participated personally and through an interpreter with CTS Language Link.

ISSUES:

Is the appeal timely?
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: The unemployment insurance decision was mailed to the appellant's address of record on May 18, 2018. The appellant did not receive the decision. Because claimant was not receiving benefit payments, he called Iowa Workforce Development on May 30, 2018. He was then informed of the reference 06 decision. He filed an appeal the next day on May 31, 2018.

The claimant received unemployment insurance benefits in the amount of \$3,640.00 for the eight weeks ending April 21, 2018. A reference 04 decision found claimant was ineligible for those benefits. That decision was affirmed in Appeal Number 18A-UI-06100-CL-T.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The appellant 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 disqualification. Therefore, the appeal shall be accepted as timely.

The administrative law judge further 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 has been overpaid unemployment insurance benefits in the amount of \$3,640.00, pursuant to Iowa Code § 96.3(7), as the decision that created the overpayment decision has been affirmed.

DECISION:

The May 18, 2018, (reference 06) unemployment insurance decision is affirmed. The appeal is timely. The claimant has been overpaid unemployment insurance benefits in the amount of \$3,640.00.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn