

IOWA DEPARTMENT OF INSPECTIONS & APPEALS  
DIVISION OF ADMINISTRATIVE HEARINGS  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 09-IWDUI-198  
**OC:** 02-08-09  
**Claimant:** Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AMANDA L. YOUNG**  
**3100 47<sup>TH</sup> ST.**  
**DES MOINES, IA 50310-3556**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT  
INVESTIGATION AND RECOVERY  
1000 EAST GRAND AVENUE  
DES MOINES IA 50319-0209**

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the Department . If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

DAN ANDERSON, IWD

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(Administrative Law Judge)  
**September 29, 2009**

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(Decision Dated & Mailed)

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Section 96.3-7 - Recovery of Overpayments

### STATEMENT OF THE CASE

Claimant Amanda L. Young filed an appeal from an Iowa Workforce Development decision dated September 2, 2009, reference 04, which held she had been overpaid unemployment benefits in the amount of \$30 because she incorrectly reported wages earned with Image Transform LTD during the week ending February 14, 2009.

A hearing was scheduled by way of telephone conference call on September 28, 2009, 2008. Ms. Young did not appear or participate in the hearing. Neither did anyone appear to participate on behalf of Iowa Workforce Development, Investigation and Recovery. Official notice was taken of the contents of the administrative record.

## **FINDINGS OF FACT**

Amanda L. Young filed a claim for unemployment benefits with an effective date of February 8, 2009. On September 2, 2009, Iowa Workforce Development issued a decision that she was overpaid benefits in the amount of \$30 for the week ending February 14, 2009 because she failed to correctly report wages earned with Image Transform LTD.

I am unable to find evidence in the record as to the amount of earnings Image Transform LTD reported for Ms. Young for the week in question; the amount of wages, if any, reported by Ms. Young; the amount of benefits she was paid during the period in question or the amount of benefits to which the department determined she would have been entitled had she properly reported her earnings. There are some computer printouts in the administrative file, but without testimony explaining the content of the printouts, the undersigned cannot discern from the record how the department arrived at its determination.

## **CONCLUSIONS OF LAW**

The issue is whether Amanda Young has been overpaid benefits in the amount of \$30.

Iowa law provides that the division of job service may, in its discretion, recover any overpayment of benefits regardless of whether the recipient acted in good faith. Recovery may be made by either having a sum equal to the overpayment deducted from future benefits or by having the recipient pay the amount of the overpayment to the division.<sup>1</sup> If any benefits were received due to misrepresentation, the department is entitled to file a lien in the amount of the overpayment in favor of the state against any property owned by the benefits recipient.<sup>2</sup>

The department has failed to present any evidence whatsoever by which it might be determined Ms. Young received an overpayment of benefits or, if so, the amount of that overpayment. It is unknown how much, if any, wages Ms. Young reported, her weekly benefit amount or how much her employer reported she earned. Without this information, it cannot be held Ms. Young was overpaid benefits. Therefore, the department's decision must be reversed.

## **DECISION**

The decision of the representative dated September 2, 2009, reference 04, is REVERSED. The department shall take any steps necessary to implement this decision.

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<sup>1</sup> Iowa Code section 96.3(7).

<sup>2</sup> Iowa Code section 96.16(4).