

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DAVID L ATWATER Claimant IOWA WORKFORCE DEVELOPMENT DEPARTMENT	68-0157 (9-06) - 3091078 - EI APPEAL NO. 20A-UI-00995-JTT ADMINISTRATIVE LAW JUDGE DECISION OC: 12/22/19 Claimant: Appellant (2)
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Iowa Code Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

David Atwater filed a timely appeal from the January 28, 2020, reference 02, decision that held he was overpaid \$614.00 in benefits for the two weeks between December 22, 2019 and January 4, 2020, based on the deputy's conclusion that Mr. Atwater "incorrectly reported wages earned with Harmeyer Insurance Agenc[y]." The reference to Harmeyer Insurance Agency is clearly an unfortunate clerical error. The overpayment issue at hand has nothing to do Harmeyer Insurance Agency. Iowa Workforce Development records reflect that this claimant has never worked for that employer. Rather, the overpayment issue at hand is premised on whether the claimant received holiday pay, vacation pay, and/or other types of remuneration during the two weeks in question that rendered him ineligible for unemployment insurance benefits for those two weeks. After due notice was issued, a hearing was held on February 18, 2020. Mr. Atwater participated. The hearing in this matter was consolidated with the hearing in Appeal Number 20A-UI-00994-JTT. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, and the SIDES notice of claim/employer response. The administrative law judge left the hearing record open to provide the claimant an opportunity to submit pay stubs for the weeks in question, which pay stubs were submitted and received into the hearing record on February 18, 2020 as Exhibit A.

ISSUE:

Whether the claimant was overpaid \$614.00 in benefits for the two weeks between December 22, 2019 and January 4, 2020, based on receipt of or entitlement to receive holiday pay, vacation pay or other remuneration for those two weeks.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: David Atwater established an original claim for unemployment insurance benefits that was effective December 22, 2019. Iowa Workforce Development set his weekly benefit amount at \$481.00. Mr. Atwater received \$209.00 in unemployment insurance benefits for the week that ended December 28, 2019 and \$405.00 in benefits for the week that ended January 4, 2020. The benefits total \$614.00.

On January 28, 2020, an Iowa Workforce Development Benefits Bureau deputy entered a reference 01 decision that denied benefits for the two-week period of December 22, 2019 through January 4, 2020, based on the deputy's conclusion that Mr. Atwater received or was entitled to receive vacation pay, paid time off, holiday pay, severance pay and/or separation pay that was deductible from his unemployment insurance benefit eligibility. The reference 01 decision prompted the overpayment decision from which Mr. Atwater appeals in the present matter. The January 28, 2020, reference 01, decision has been modified in Appeal Number 20A-UI-00994-JTT in favor of Mr. Atwater to find him eligible for the benefits he received for the two-weeks between December 22, 2019 and January 4, 2020, provided he is otherwise eligible.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recovery the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Because the January 28, 2020, reference 01, decision that denied benefits for the two weeks between December 22, 2019 through January 4, 2020 has been modified on appeal to hold the claimant eligible for the benefits he received for that two-week period provided he is otherwise eligible, Mr. Atwater was not overpaid \$614.00 in benefits for the two weeks between December 22, 2019 and January 4, 2020.

DECISION:

The January 28, 2020, reference 02, is reversed. The claimant was not overpaid \$614.00 in benefits for the two weeks between December 22, 2019 and January 4, 2020.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn