

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRAVES W HESEBECK**  
Claimant

**APPEAL NO: 10A-UI-03097-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/31/10  
Claimant: Appellant (1)**

Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The claimant appealed a representative's February 18, 2010 decision (reference 02) that concluded he had been overpaid \$798.00 in regular unemployment insurance benefits he received for the weeks ending February 6 and 13. A telephone hearing was held on March 13, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Has the claimant been overpaid \$798.00 in regular unemployment insurance benefits he received for the weeks ending February 6 and 13, 2010?

**FINDINGS OF FACT:**

A second, subsequent benefit year was established for the claimant as of January 31, 2010. His weekly benefit amount for this claim year was determined to equal \$374.00. The claimant filed for and received regular unemployment insurance benefits for the weeks ending February 6 and 13, 2010. He received his maximum weekly benefit amount for each of these weeks. The claimant also received an additional \$25.00 each week from the government's economic stimulus program.

The claimant is not legally entitled to establish a subsequent or second benefit year as of January 31, 2010. See decision for 10A-UI-03096-DWT. This means the claimant is still eligible to receive Emergency Unemployment Compensation benefits for these weeks. The claimant's maximum weekly benefit amount under his first benefit year that was established the week of February 1, 2009, is \$342.00.

**REASONING AND CONCLUSIONS OF LAW:**

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. Based on the decision for 10A-UI-03096-DWT, the claimant

is not legally entitled to receive regular unemployment insurance benefits as of January 31, 2010. This means he has been overpaid a total of \$798.00 in benefits he received for the weeks ending February 6 and 13, 2010. (\$748.00 in regular benefits and \$50.00 from the government's economic stimulus program.)

When the Department applied the benefits the claimant was legally entitled to receive, Emergency Unemployment Compensation benefits, the law only allows the Department to offset 50 percent of the claimant's weekly benefit from this program. This means that only \$171.00 a week could be used to offset the overpayment from the regular unemployment insurance benefits the claimant received. Since the Department can only offset 50 percent, the claimant received an additional \$171.00 for the weeks ending February 6 and 13.

The claimant only filed claims for the weeks ending February 6 through 20 and then returned to work. Therefore the Department only offset \$171.00 times three against the overpayment. This leaves a balance of \$285.00 that remains to be paid by the claimant. Also, instead of offsetting the \$50.00 the claimant received from the government's economic similar program to reduce the overpayment, the Department paid the claimant an additional \$50.00 for the weeks ending February 6 and 13. As of the date of this decision the claimant has a remaining balance of \$285.00 to pay back to the Department,

**DECISION:**

The representative's February 18, 2010 decision (reference 02) is affirmed. The claimant was not legally entitled to receive regular unemployment insurance benefits for the weeks ending February 6 and 13, 2010. He has been overpaid a total of \$798.00 in benefits for these weeks. As a result of the offset that has been done with the Emergency Unemployment compensation benefits the claimant was entitled to receive, the claimant has a balance of \$285.00 to pay back to the Department.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/css