

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA C COCHERELL
Claimant

APPEAL NO: 06A-UI-02265-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/24/06 R: 03
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Joshua C. Cocherell (claimant) appealed a representative's February 23, 2007 decision (reference 01) that concluded he had been overpaid \$2,338.00 in benefits he received for the weeks ending December 30, 2006, through February 10, 2007. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on March 21, 2007. The claimant participated in the hearing with his witness, Jamie Jirak. 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 any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of December 24, 2006. The claimant established this claim after his most recent employer placed him on a seasonal layoff. Wages that appeared under the claimant's social security number indicated he had earned and received wages in Colorado and from Vollink Trucking Inc. for work he performed in Iowa. Since the wage records indicated the claimant had wages in both Colorado and Iowa, a representative concluded the claimant was eligible to receive benefits in Iowa and asked Colorado to transfer the wage credits the claimant had earned in Colorado from July 1, 2005 through June 30, 2006, the claimant's base period.

Based on the initial wages from Vollink Trucking, Inc. and Colorado, the claimant was eligible to receive maximum weekly benefits of \$334.00. He filed claims for the weeks ending December 30, 2006 through February 10, 2007. The claimant received his maximum weekly amount for each of these weeks.

After the claimant received unemployment insurance benefits, the Department learned Vollink Trucking, Inc. had inadvertently misreported wages under the claimant's social security number. Since the claimant never worked for Vollink Trucking, Inc., the wages that had been misreported

under the claimant's social security number had to be removed from the claimant's base period. This then left only wages the claimant had earned from Colorado in his base period. As a result, the Colorado wages could not be transferred to Iowa, which in turn meant the claimant was not monetarily eligible to receive unemployment insurance benefits in Iowa.

REASONING AND CONCLUSIONS OF LAW:

To be eligible to receive unemployment insurance benefits, a claimant must be monetarily eligible, which means he must have wages credits in his base period. Iowa Code section 96.3-4. Base period is defined as the first four of the last five completed calendar quarter immediately preceding the calendar quarter in which an individual's claim for benefits is effective. 871 IAC 24.1(11).

After the misreported wages from Vollink Trucking, Inc. were removed from the claimant's social security number, there were no wages that could be used for the claimant's unemployment insurance claim in Iowa. Since the claimant had earned wages in Colorado, he was still potentially eligible to receive benefits from Colorado. The claimant indicated he filed a claim in Colorado, but has been held disqualified because he quit working in Colorado to accept his most recent job. If the claimant had been qualified to receive benefits from Colorado the benefits he was entitled to receive from Colorado could have been used to offset the benefits he should not have received from Iowa.

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 section 96.3-7. The claimant is not at fault in receiving benefits he did from Iowa. The claimant did nothing wrong. However, based on the wages from working in Iowa in his base period, he is not legally entitled to receive benefits from Iowa because he is not monetarily eligible to receive benefits. This means he has been overpaid \$2,338.00 in benefits he received from Iowa for the weeks ending December 30, 2006, through February 10, 2007.

DECISION:

The representative's February 23, 2007 decision (reference 01) is affirmed. The claimant is not legally entitled to receive benefits from Iowa for the weeks ending December 30, 2006, through February 10, 2007. The claimant has been overpaid and must repay a total of \$2,338.00 in benefits he received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs