

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA S HEFFNER
Claimant

APPEAL NO: 08A-UI-09737-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HILLCREST FAMILY SERVICES
Employer

**OC: 07/13/08 R: 04
Claimant: Respondent (4)**

Section 96.4-3 – Able to and Available for Work
871 IAC 24.23(26) – Eligibility When Hours Reduced
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Hillcrest Family Services (employer) appealed a representative's October 16, 2008 decision (reference 02) that concluded Amanda S. Heffner (claimant) was eligible to receive benefits as of July 13, 2008, because her hours were reduced. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 6, 2008. The claimant participated in the hearing with her union representative, John Rosenthal. Julie Heidersheit, the vice president of human resources, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant eligible to receive partial benefits for the weeks ending July 19, 26 and August 9, 2008?

Has the claimant been overpaid any benefits?

FINDINGS OF FACT:

The claimant started working for the employer on April 15, 2004. During the school year the claimant works as a school associate. During the summer of 2007 and 2008, the employer hired the claimant to work in a CHAMPS position. The employer informed the claimant she would be working 28 hours a week and would earn \$9.45 an hour during the summer of 2008.

The week of July 13 to 19, the claimant only worked 21 hours because the employer did not have enough work for her to do. During the week of July 20 to 26, the claimant worked 9.20 hours. During the week of August 3 through 9 the claimant was paid a total of 18.20 hours, this included hours the claimant took off on August 5 when she was ill.

The claimant established a claim for benefits during the week of July 13, 2008. The claimant's maximum weekly benefit is \$212.00. The claimant filed claims for the weeks ending July 19, 26 and August 9, 2008. The claimant reported she had earned \$166.00 for the week ending July 19 and received \$104.00 in partial benefits. For the week ending July 26, the claimant reported she had earned \$88.00 and received \$177.00 in partial benefits. For the week ending August 9, the claimant reported she had earned \$198.00, which resulted in receiving \$67.00 in partial benefits. The claimant did not work 28 hours for the above weeks because the employer did not have work for her to do.

REASONING AND CONCLUSIONS OF LAW:

The employer hired the claimant for the summer to work 28 hours a week. For the weeks ending July 19, 26 and August 9, the employer did not have enough work for the claimant to do and had to reduce her hours during these weeks. Since the claimant earned less than \$227.00 during these three weeks, she is eligible to receive partial benefits. Iowa Code section 96.4-3. 871 IAC 24.23 (26).

A claimant who is partially unemployed may receive partial benefits. When the claimant earns less than \$227.00 per week, she is eligible to receive partial benefits based on the calculation set forth 871 IAC 24.18. To calculate the claimant's partial weekly benefit amount for the week ending July 19, the Department subtracted $\frac{1}{4}$ of the claimant's maximum weekly benefit amount from her reported wages. This amount was then subtracted from her maximum weekly benefit amount. (\$161.00 minus \$53.00 = \$108.00. \$108 is then subtracted from \$212.00. The claimant was determined to be eligible to receive \$104.00 for this week.)

The facts establish the claimant actually earned \$210.34 for the week ending July 19, 2008. This means she was eligible to receive \$54.00 in benefits, not \$104.00. The claimant was overpaid \$50.00 for this week. For the week ending July 26, the claimant earned \$87.00, not \$88.00. As a result, the claimant was eligible to receive \$178.00, instead of \$177.00. The claimant was underpaid \$1.00 for this week. For the week ending August 9, the claimant earned \$172.00, not \$198.00. As a result, the claimant was eligible to receive \$93.00 instead of \$67.00. The claimant was underpaid \$26.00 for this week.

If an individual receives benefits she 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 end result of the overpayment and underpayments of benefits is that the claimant has been overpaid \$23.00 in benefits for these three weeks.

DECISION:

The representative's October 16, 2008 decision (reference 02) is modified in the employer's favor. The claimant is eligible to receive benefits of the weeks ending July 19, 26 and August 9, because her hours were reduced and she earned less than her weekly benefit amount during

these weeks. The gross wages the claimant initially reported were not accurate for these weeks. The claimant underreported wages during the week ending July 19 and over reported her wages for the week ending August 9. As a result, she has been overpaid and must repay a total of \$23.00 in benefits she received for the weeks ending July 19, 26 and August 9, 2008.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs