

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LUAH SUAH
Claimant

APPEAL 21A-UI-00387-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/12/20
Claimant: Appellant (4)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.6(2) - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed from the October 27, 2020, (reference 05) unemployment insurance decision that found claimant overpaid benefits. After due notice was issued, a hearing was held by telephone conference call on February 13, 2021. The claimant participated.

ISSUES:

Is the appeal timely?
Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On October 27, 2020, Iowa Workforce Development (IWD) issued a reference 05 unemployment insurance decision that found claimant overpaid benefits in the amount of \$3,401.00. The decision listed an appeal deadline of November 6, 2020. Claimant called IWD and was told a second decision was coming in the mail and to wait to file an appeal. On November 4, 2020, IWD issued a reference 06 unemployment insurance decision finding claimant overpaid Federal Pandemic Unemployment Compensation. Claimant filed an appeal on November 18, 2020. The reference 05 decision was amended in claimant's favor on December 7, 2020, when IWD issued a reference 07 unemployment insurance decision finding claimant overpaid in the reduced amount of \$3,048.00 for the eight weeks ending June 6, 2020.

Claimant did receive \$3,048.00 for the eight weeks ending June 6, 2020. On July 30, 2020, an administrative law judge found claimant ineligible for benefits from April 12, 2020, until June 7, 2020, and allowed benefits effective June 8, 2020. Claimant did not appeal that decision and did not apply for Pandemic Unemployment Assistance benefits.

REASONING AND CONCLUSIONS OF LAW:

In this case, the issue of whether the appeal is timely is moot because IWD issued a reference 07 unemployment insurance decision in claimant's favor after the decision in this case became final. The administrative law judge will analyze the issue of whether claimant was overpaid benefits and whether the overpayment was correctly calculated.

The administrative law judge concludes claimant has been overpaid benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5. . . .

The administrative law judge concludes that the claimant has been overpaid REGULAR unemployment insurance benefits in the amount \$3,048.00 as claimant was not qualified or was ineligible to receive REGULAR unemployment insurance benefits and did not apply for Pandemic Unemployment Assistance to cover that time period when she received benefits due to the COVID 19 pandemic.

DECISION:

The October 27, 2020, (reference 05) unemployment insurance decision is modified in favor of the claimant. The claimant has been overpaid unemployment insurance benefits in the amount of \$3,048.00.



Christine A. Louis
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February 25, 2021
Decision Dated and Mailed

cal/mh