

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL J WERTHMANN
Claimant

APPEAL 19A-UI-01515-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/16/18
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the February 13, 2019 (reference 02) unemployment insurance decision that found claimant was overpaid benefits of \$960.00 for six weeks between December 16, 2018 and January 26, 2019. Claimant waived due notice of the hearing. A telephone hearing was held on February 20, 2019. The claimant, Michael J. Werthmann, participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Is the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant received benefits of \$960.00 for six weeks between December 16, 2018 and January 26, 2019. The overpayment issue in this case was created by a decision dated January 30, 2019 (reference 01) that found him ineligible for benefits during a vacation or holiday recess. Claimant appealed the January 30, 2019 (reference 01) decision and that decision has now been affirmed. See Appeal 19A-UI-01041-DB-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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 unemployment insurance benefits of \$960.00 for six weeks between December 16, 2018 and January 26, 2019, pursuant to Iowa Code § 96.3(7), as the ineligibility decision that created the overpayment has been affirmed.

DECISION:

The February 13, 2019 (reference 02) unemployment insurance decision is affirmed. The claimant has been overpaid unemployment insurance benefits of \$960.00 for six weeks between December 16, 2018 and January 26, 2019 to which he was not entitled. Those benefits must be recovered in accordance with Iowa law.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs