

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN M SELLARS
Claimant

APPEAL NO. 08A-UI-05676-LT

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/11/08 R: 02
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 17, 2008, reference 02, decision that found the claimant overpaid benefits in the amount of \$806.00 for the three week period ending May 31, 2008. After due notice was issued, a telephone conference hearing was held on July 10, 2008. Claimant participated.

ISSUE:

The issue is whether claimant is overpaid benefits for the five-week period ending June 14, 2008, including the three-week period ending May 31, 2008.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by a wage and vacation pay decision that has now been modified in favor of the appellant, see below:

The administrative law judge finds that claimant was paid gross wages and benefits for the enumerated weeks as follows:

<u>Week End</u>	<u>Gross Wages (Vac)</u>	<u>Benefits Paid</u>	<u>Benefits Due</u>	<u>(Over)Underpayment</u>
May 17	\$143 (205)	\$256.00	\$85	(\$171)
May 24	\$655	\$203.00	\$0	(\$203)
May 31	\$611	\$347.00	\$0	(\$347)
June 7	\$765	\$0	\$0	\$0
June 14	\$86	\$0	\$347	\$347

The total overpayment (\$721) less the total underpayment \$347 leaves a net overpayment of (\$374.00).

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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 section 96.8, subsection 5.

The administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$806.00 as stated by the representative's decision. However, claimant is overpaid \$374.00 pursuant to Iowa Code § 96.3(7) because the decision that created the overpayment decision has now been modified in favor of the appellant, see appeal number 08A-UI-05675-LT.

DECISION:

The June 17, 2008, reference 02, decision is modified in favor of the appellant. The claimant is overpaid benefits of \$374.00 for the five-week period ending June 14, 2008.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs