

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANA R WERKMEISTER**  
Claimant

**APPEAL NO: 18A-UI-09951-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 08/27/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin Code chapter 25- Benefit payment control

**STATEMENT OF THE CASE:**

The claimant, Shana R. Werkmeister, filed an appeal from the September 17, 2018, (reference 03) unemployment insurance decision that concluded the claimant was overpaid benefits following a redetermination of her wage credits. The parties were properly notified about the hearing. A first hearing was scheduled for October 16, 2018 but continued to allow the claimant receipt of proposed exhibits. The parties were properly notified about the hearing. A second telephone hearing was held on October 18, 2018. The claimant participated personally. Geri Lainson, quality control auditor for Iowa Workforce Development, also testified. Department Exhibits D-1 through D-3 and Claimant Exhibit A were admitted into evidence. The administrative law judge took official notice of the administrative records including the claim for benefits and fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant has been overpaid benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a new claim for unemployment insurance benefits with an effective date of August 27, 2017.

When she opened her claim, the claimant agreed that she would read and understand the handbook. She was given the option of reading the Unemployment Insurance Handbook online or a hardcopy. The claimant stated she read parts of the handbook.

The handbook provided in part:

**The Quality Control Unit**

The Quality Control (QC) unit of the UI Integrity Bureau randomly selects claims and benefit denial decisions each week for review, to determine if benefits were accurately paid or denied. Selected individuals are required to participate in the review as a condition of continuing eligibility for UI benefits. A Notice of Selection, containing the date and time of the telephone interview with a QC Auditor, is mailed to each selected individual prior to the review. Individuals will receive a questionnaire for completion prior to the telephone interview. Individuals must have a record of their work searches made for the week under review, as QC will verify the work search with the employer(s). Refusal to cooperate with the auditor may result in a denial of UI benefits.

Based upon the US Department of Labor guidelines, Ms. Werkmeister's claim was selected for an audit. Quality Control Auditor, Geri Lainson, conducted a recheck of quarterly wages reported by the Ms. Werkmeister's former employer, Davenport Country Club, during the claimant's base period. The employer responded to the verification of base year employment on October 10, 2017 (Department Exhibit D1, Page 1).

Upon reviewing the employer records, it was discovered that the employer had been reporting wages and sick pay together for the claimant's quarterly wages. Sick pay is not included as wages and should not have been included when the employer reported the claimant's wages. As a result, the wages used to originally calculate Ms. Werkmeister's weekly benefit amount were inflated.

The initially reported wages were part of the calculation of determining the claimant's weekly benefit amount (WBA) of unemployment insurance benefits. Originally, based upon the quarterly wages reported by the employer, Ms. Werkmeister's weekly benefit amount was established as \$344.00 per week. On August 23, 2018, Ms. Lanison requested the employer wages be adjusted (Department D1, page 3-6). The claimant's weekly benefit amount was recalculated to be \$333.00 (Department Exhibit D1, pages 8-9).

For the period of September 2, 2017 through March 3, 2018, Ms. Werkmeister made weekly continued claims and received unemployment insurance benefits based upon a weekly benefit amount of \$344.00 per week (Department Exhibit D1, pages 8-9). On August 30, 2018, Ms. Lainson sent a notice to report to the claimant, first alerting her to the overpayment issue (Department Exhibit D-1, pages 10). Ms. Werkmeister responded to the notice on September 1, 2018 by leaving a voicemail for Ms. Lainson, stating she did not agree with the overpayment as she was not responsible for the incorrect wages being reported (Department Exhibit D1, page 11). The claimant did not provide additional evidence that the updated wages reported by the employer were inaccurate.

As a result of the audit and corrected wages, which reduced the claimant's weekly benefit amount, the following overpayment was established: (Department Exhibit D-1, pages 8-9).

	Wages Reported By		UI Benefits		Underpayment	Overpayment
Week Ending	Claimant	Employer	Amount Paid	Entitled		
09/02/2017	\$226	226	\$204	\$193		\$14
09/09/2017	\$0	\$0	\$344	\$333		\$11
09/16/2017	\$0	\$0	\$344	\$333		\$11
09/23/2017	\$0	\$0	\$344	\$333		\$11
09/30/2017	\$0	\$0	\$344	\$333		\$11
10/07/2017	\$0	\$0	\$344	\$333		\$11
10/14/2017	\$0	\$0	\$344	\$333		\$11
10/24/2017	\$0	\$0	\$344	\$333		\$11
10/28/2017	\$0	\$0	\$344	\$333		\$11
11/04/2017	\$0	\$0	\$344	\$333		\$11
11/11/2017	\$0	\$0	\$344	\$333		\$11
11/18/2017	\$0	\$0	\$344	\$333		\$11
11/25/2017	\$0	\$0	\$344	\$333		\$11
12/02/2017	\$0	\$0	\$344	\$333		\$11
12/09/2017	\$0	\$0	\$344	\$333		\$11
12/16/2017	\$0	\$0	\$344	\$333		\$11
12/23/2017	\$0	\$0	\$344	\$333		\$11
12/30/2017	\$0	\$0	\$344	\$333		\$11
01/06/2018	\$0	\$0	\$344	\$333		\$11
01/13/2018	\$0	\$0	\$344	\$333		\$11
01/20/2018	\$0	\$0	\$344	\$333		\$11
01/27/2018	\$0	\$0	\$344	\$333		\$11
02/03/2018	\$0	\$0	\$344	\$333		\$11
02/10/2018	\$0	\$0	\$344	\$333		\$11
02/17/2018	\$0	\$0	\$344	\$333		\$11
02/24/2018	\$0	\$0	\$344	\$333		\$11
03/03/2018	\$0	\$0	\$140	\$143	\$3	
					\$3	\$289
					NET TOTAL	\$286

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was overpaid \$286.00 in unemployment insurance benefits.

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

7. Recovery of overpayment of benefits.

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 division of job service 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 division a sum equal to the overpayment.

871—25.8(96) Recovery of benefit overpayments when benefits are erroneously received. 25.8(1) Good faith overpayment. If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual is not entitled to receive the benefits, the department shall 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. The department shall mail the overpayment decision to the claimant's last-known address. Once the overpayment amount has been established, an overpayment schedule shall be set up to leave a proper audit trail even if the claimant pays to the department a sum equal to the overpayment.

In this case, an audit was conducted which established an overpayment of unemployment insurance benefits in the amount of \$286.00. The overpayment was due to the employer, not the claimant, incorrectly reporting wages. The incorrectly reported wages were used to initially establish the claimant's weekly benefit amount to draw benefits. Consequently, Ms. Werkmeister was allowed to collect unemployment insurance benefits from September 2, 2017 through March 3, 2018 at a higher weekly benefit amount to which she was entitled.

The administrative law judge is sympathetic to the claimant and recognizes the overpayment was not attributed to her conduct. However, there is no evidence that the updated employer wages, which resulted in the lower weekly benefit amount, (and subsequent overpayment) were incorrect. Accordingly, the administrative law judge must affirm the overpayment, even though it occurred by no fault of the claimant. The claimant has been overpaid benefits in the amount of \$286.00.

**DECISION:**

The September 17, 2018, (reference 03) decision is affirmed. The claimant has been overpaid benefits in the amount of \$286.00, which must be repaid.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/scn