

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SAMANTHA LONG Claimant IOWA WORKFORCE DEVELOPMENT DEPARTMENT	68-0157 (9-06) - 3091078 - EI APPEAL NO: 08A-UI-05498-DT ADMINISTRATIVE LAW JUDGE DECISION OC: 05/04/08 R: 02 Claimant: Appellant (4/R)
------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Samantha Long (claimant) appealed a representative's June 10, 2008 decision (reference 02) that concluded she had been overpaid unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 25, 2008. This appeal was consolidated for hearing with one related appeal, 08A-UI-05497-DT. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision reversing the representative's decision.

ISSUE:

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

A representative issued a decision dated June 9, 2008 (reference 01) that concluded the claimant was disqualified from receiving benefits after a separation from employment from Behavioral Health Resources, Inc. (employer). The claimant timely appealed that decision and in the concurrently issued decision in appeal 08A-UI-05497-DT, that decision has been modified to remove the total disqualification from the separation.

The overpayment decision was issued in this case as a result of the June 9, 2008 (reference 01) disqualification decision.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is overpaid benefits of \$1,476.00.

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 is not overpaid benefits due to the disqualification decision issued on June 9, 2008 (reference 01), which has now been modified to remove the separation disqualification. However, the decision also contains a remand for consideration of a partial disqualification issue which could also result in an overpayment.

DECISION:

The representative's June 10, 2008 decision (reference 02) is modified in favor of the claimant. The claimant is not overpaid benefits due to the separation from employment. The matter is remanded to the Claims Section for a determination as to whether there is any overpayment due to the able and available issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs