

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JUAN J COLUNGA**  
Claimant

**APPEAL NO. 11A-UI-11560-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/02/11  
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Juan J. Colunga filed a timely appeal from an unemployment insurance decision dated August 23, 2011, reference 03, that ruled he had been overpaid unemployment insurance benefits for the 25 weeks ending January 1, 2011. After due notice was issued, a telephone hearing was held September 28, 2011 with Mr. Colunga participating.

**ISSUE:**

Must the claimant repay the benefits he has received?

**FINDINGS OF FACT:**

Juan J. Colunga received unemployment insurance benefits in the gross amount of \$9,356.35 for the 25 weeks ending January 1, 2011. A fact-finding decision dated May 17, 2011 disqualified Mr. Colunga from receiving benefits for those weeks. That decision was affirmed by an administrative law judge decision dated June 22, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the benefits at issue must be repaid. They must. Iowa Code § 96.3-7 requires that unemployment insurance benefits paid in error be repaid to the agency, even if the individual who has received the benefits is not at fault for the overpayment. The evidence in this record establishes that Mr. Colunga received the benefits, that the fact-finding decision disqualifying him from benefits has been affirmed by an administrative law judge decision which is not, at least yet, been reversed by the Employment Appeal Board. Under these circumstances, the benefits must be repaid. Should the Employment Appeal Board subsequently reverse the administrative law judge's decision, the effect of that decision would be to eliminate the overpayment.

**DECISION:**

The unemployment insurance decision dated August 23, 2011, reference 03, is affirmed. The claimant must repay the benefits he received for the 25 weeks ending January 1, 2011.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

pjs/pjs