

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JILL L FULLERTON**  
Claimant

**APPEAL NO. 11A-UI-08697-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/19/10  
Claimant: Appellant (3)**

Section 96.3-7 - Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Jill L. Fullerton (claimant) appealed a representative's June 24, 2011 decision (reference 05) 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 July 26, 2011. The claimant participated in the hearing. This appeal was consolidated for hearing with one related appeal, 11A-UI-08695-DT. 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 affirming the representative's decision that the claimant was overpaid unemployment insurance benefits.

**ISSUE:**

Was claimant overpaid unemployment insurance benefits of \$1,032.00 for the period between September 19, 2010 and November 13, 2010?

**FINDINGS OF FACT:**

A representative issued a decision dated November 22, 2010 (reference 03) that concluded the claimant was disqualified from receiving benefits after an August 11, 2010 separation from Symphony IRI Group, Inc. (employer). The overpayment decision was issued in this case as a result of that disqualification decision. As determined in the concurrently issued decision in appeal 11A-UI-08695-DT, that disqualification decision has now been affirmed.

The claimant established a claim for unemployment insurance benefits effective September 19, 2010, after a separation from a different employer, M R Enterprises (Holiday Pool). Her weekly benefit amount was determined to be \$129.00. The claimant received unemployment insurance benefits between September 19 and November 13 in the amount of \$1,032.00. The claimant's claim had been locked as of November 22, 2010 with the issuance of the decision issued that day.

On or about January 4, 2011, the claimant went to her local Agency office to inquire whether she was still disqualified from receiving unemployment insurance benefits. On January 5, 2011, a decision was issued indicating that the claimant had earned ten times her weekly benefit

amount since the ending of the employment with Symphony IRI Group, Inc. The representative's decision did not specify an effective date for that requalification. However, when the overpayment determination was made on June 24, 2011, it assumed that the requalification had been effective as of November 14, 2010. Therefore, the overpayment decision did not consider the benefits that had been paid for the week ending November 20 as having been overpaid. Because of the assumption that the claimant had been requalified prior to January 2011, the claimant's claim for unemployment insurance benefits was reopened and additional benefits were paid to the claimant from December 12, 2010 through January 29, 2011. The total amount of benefits paid for weeks between September 19, 2010 and January 29, 2011 are \$2,064.00.

During the period of July 1 through August 11, the claimant had employment with both Symphony IRI Group, Inc. and M R Enterprises (Holiday Pool). For the entire third quarter of 2010, the period from July 1 through September 30, 2010, the claimant's earnings with M R Enterprises (Holiday Pool) were reported as \$2,110.00. She would have needed to have earned \$1,290.00 of that amount after August 11 for her to have requalified by earning ten times her weekly benefit amount as of September 19. The claimant's employment with M R Enterprises (Holiday Pool) ended on or about September 15. The claimant worked for M R Enterprises (Holiday Pool) less than half of the quarter after August 11; even half of the \$2,110.00 would be less than the necessary \$1,290.00 needed to requalify.

The claimant did not earn any additional wages after the employment with M R Enterprises (Holiday Pool) until she began a new job with I C System, Inc. as of about January 31, 2011. As of the first quarter 2011, she had earned and been paid \$2,227.00 in that new employment, and clearly has now requalified.

#### **REASONING AND CONCLUSIONS OF LAW:**

An underlying disqualification can result in an overpayment of unemployment insurance benefits.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7. In this case, because the decision causing the disqualification has now been affirmed, the claimant has received benefits but was ineligible for those benefits. Further, the amount of benefits overpaid was under-calculated because of a misinterpretation as to the effective date of the claimant's requalification, causing additional benefits to have be issued and overpaid.

Even though those benefits were received in good faith, the overpaid benefits must be recovered in accordance with the provisions of Iowa law. The mere fact that an Agency misapplied the requalification date does not serve to prevent recovery of that overpayment. Sievertsen v. Employment Appeal Board, 483 N.W.2d 818 (Iowa 1992). The administrative law judge concludes that the claimant is overpaid benefits of \$2,064.00 pursuant to Iowa Code § 96.3-7.

The administrative law judge will allow the claimant **one calendar week from the issuance of this decision** to submit any **detailed payroll records** that might serve to establish that at least \$1,290.00 of the \$2,110.00 earned in her employment with M R Enterprises (Holiday Pool) in the third quarter 2010 to have been earned and paid to her after August 11, 2010. If those are

submitted, the administrative law judge will reopen the record to receive those documents and will determine if any modification of this decision is then appropriate.

**DECISION:**

The representative's June 24, 2011 decision (reference 05) is affirmed as modified. The claimant is overpaid benefits of \$2,064.00.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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