

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAUL W GEHLING
Claimant

APPEAL 17A-UI-02630-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 01/03/16
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 6, 2017, (reference 04), unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$529.00 for the one-week period ending December 24, 2016, as a result of a failure to report or incorrectly reporting vacation pay from OMG MIDWEST INC. After due notice was issued, a telephone hearing was scheduled and held on March 31, 2017, pursuant to due notice. Claimant participated. Official notice was taken of the administrative record of claimant's benefit payment history and the fact-finding documents, with no objection.

ISSUE:

Is the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The overpayment issue in this case was created by an unemployment insurance decision that found claimant failed to report or incorrectly reported vacation pay, which has modified in favor of the appellant in appeal number 17A-UI-02629-JP-T.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid benefits for the one-week period ending December 24, 2016.

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

7. Recovery of overpayment of benefits.

a. 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.

b. (1) (a) 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 claimant has not been overpaid unemployment insurance benefits in the amount of \$529.00 for the one-week period ending December 24, 2016 pursuant to Iowa Code § 96.3(7) as the unemployment insurance decision that created the overpayment decision has modified in favor of the appellant in appeal number 17A-UI-02629-JP-T.

DECISION:

The March 6, 2017, (reference 04) unemployment insurance decision is reversed. Claimant has not been overpaid unemployment insurance benefits in the amount of \$529.00 for the one-week period ending December 24, 2016.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

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