

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RICKY L ANDERSON
Claimant

APPEAL NO. 14A-UI-07924-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/11/13
Claimant: Appellant (1-R)**

Section 96.3-7 – Recovery of Overpayments
871 IAC 24.50(7) – Waiver of Overpayment

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 24, 2014, reference 02, that concluded he was overpaid \$1,928 in Emergency Unemployment Compensation. A telephone hearing was held on August 25, 2014. The claimant participated in the hearing.

ISSUES:

Was the claimant was overpaid \$1,928 in EUC benefits?

Should the Agency waive recovery of the overpayment?

FINDINGS OF FACT:

The claimant filed a claim for unemployment insurance benefits in Missouri effective September 12, 2010. He exhausted regular benefits and began receiving EUC benefits in Missouri. The claimant did not draw all the EUC benefits available on that claim.

The claimant filed a new claim for unemployment insurance benefits in Iowa effective August 11, 2013. His weekly benefit amount was \$394. As of November 23, 2013, the claimant exhausted the regular benefits available on his Iowa claim.

The claimant sought advice from an Iowa Workforce Development advisor about his eligibility for additional benefits. He was encouraged to file for EUC benefits in Iowa. Based on that advice the claimant filed for and received Iowa EUC benefits as follows:

Week Ending Date	Iowa EUC Benefits Received
11-30-13	\$352
12-7-13	\$394
12-14-13	\$394
12-21-13	\$394
12-28-13	\$394
Total	\$1,928

In July 2014, IWD discovered the claimant had EUC benefits available in Missouri on the claim with an effective date of September 12, 2010. The decision instructed the claimant to file an EUC claim in Missouri to receive the benefits due him on that claim. The claimant did receive EUC benefits from Missouri but has not applied those benefits to the overpayment balance in Iowa.

The unemployment insurance decision that disqualified the claimant from receiving EUC benefits in Iowa effective November 24, 2013, has been affirmed in a decision of the administrative law judge in appeal 14A-UI-07924-SWT.

The payment of benefits was due to an Agency error and was not due to any fault by the claimant.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid EUC.

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. Iowa Code § 96.3-7. The Emergency Unemployment Compensation Act similarly requires repayment of overpaid benefits. Public Law 110-252, Title VI, Section 4005(b).

Since the decision disqualifying the claimant has been affirmed, he was overpaid \$1,928 in EUC benefits from November 24 to December 28, 2013.

Recovery of an overpayment of EUC benefits may be waived under some circumstances. See 871 IAC 24.50(7). In determining if an overpayment should be waived, the Agency must consider whether the claimant was at fault for the overpayment and whether repayment would be contrary to equity and good conscience.

In this case, however, the claimant kept the EUC benefits he received from Missouri covering the same period as the benefits received from Iowa. The claimant argued that he has no objection to being determined overpaid the amount he received from Missouri but believes he will still have an overpayment. He does not believe he should have to repay that amount because he was not at fault in receiving EUC benefits from Iowa. The problem is that the gross amount of benefits that claimant received from Missouri is not part of the record in this case.

The issue of whether the part of the overpayment—above and beyond what the claimant was paid by Missouri—should be waived is remanded to the Agency. In considering whether to grant a waiver, the agency shall consider that the overpayment was not the claimant's fault and was the result of an Agency error. The Agency shall also consider whether repayment would be contrary to equity and good conscience under the facts here. The Agency should consult with the state of Missouri to find out what the gross amount the payments were to the claimant and whether the Missouri retained any benefits for offset against Iowa's overpayment.

DECISION:

The unemployment insurance decision dated July 24, 2014, reference 02, is affirmed. The claimant was overpaid \$1,928 in EUC benefits from November 24 to December 28, 2013. The issue of waiver of that part of the overpayment beyond what Missouri paid the claimant is remanded to the Agency to determine.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css