

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KERRI A OLTROGGE
Claimant

APPEAL 18A-UI-07987-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/22/18
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 24, 2018, (reference 03), unemployment insurance decision that found claimant overpaid unemployment insurance benefits in the amount of \$1,365.00 for the three weeks ending July 14, 2018. After due notice was issued, a telephone conference hearing was scheduled to be held on August 16, 2018. Claimant participated.

ISSUE:

Has the claimant been overpaid unemployment insurance benefits for the period in question?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On June 23, 2018, claimant suffered a stroke and was hospitalized from June 24, 2018, until July 3, 2018. As a result, claimant has difficulty using her left leg and left arm. When claimant was discharged from the hospital, her medical provider instructed her that she could not drive a car, shower, go up and down the stairs, or be home alone. Claimant is taking blood thinner and is unstable when walking, so a slip and fall could be fatal if no one is present to assist her.

Claimant began therapy on July 16, 2018, and as of approximately July 23, 2018, is able to go up and down stairs. The other restrictions remain in place.

Claimant's husband can provide transportation to and from work.

Claimant has experience working at Wells Fargo Mortgage. Claimant is currently looking for positions that involve telephone work and require very little typing as she is currently only able to type 13 words per minute.

As claimant was unemployed at the time she suffered the stroke, no medical provider has given any opinion on whether claimant is able to work at this time.

Claimant received benefits in the amount of \$1,365.00 during the three weeks ending July 14, 2018.

A reference 02 decision was issued finding claimant was not eligible for benefits effective June 24, 2018, due to her inability to work. That decision was affirmed in Appeal Number 18A-UI-07986-CL-T.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits.

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) 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 § 96.8, subsection 5. . . .

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$1,365.00, pursuant to Iowa Code § 96.3(7), as she was unable to work during the three weeks ending July 14, 2018, and therefore not eligible for benefits.

DECISION:

The July 24, 2018, (reference 03), unemployment insurance decision is affirmed. The claimant has been overpaid unemployment insurance benefits in the amount of \$1,365.00.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

cal/scn