

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROXANNE M ANDERSON
Claimant

APPEAL 14A-UI-07040-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/06/14
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report
Iowa Admin. Code r. 871-24.23(11) – Failure to Report

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 7, 2014, (reference 03), unemployment insurance decision that denied benefits based upon a failure to report. After due notice was issued, a telephone conference hearing was held on July 30, 2014. Claimant participated.

ISSUES:

Did the claimant incorrectly report wages and is she overpaid as a result?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant reported net, rather than gross weekly wages for the three weeks June 7, 2014, resulting in an overpayment of benefits in the amount of \$146.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant incorrectly reported wages for the three weeks ending June 7, 2014, and is overpaid as a result.

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. . . .

Iowa Admin. Code r. 871-23.2(2) provides:

Definition of wages for employment during a calendar quarter.

(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The Employer's Contribution and Payroll Report, Form 65-5300, shall be used as prima facie evidence of when the wages were paid. If the wages are not listed on the 65-5300, they shall be considered as paid:

- a. On the date appearing on the check.
- b. On the date appearing on the notice of direct deposit.
- c. On the date the employee received the cash payment.
- d. On the date the employee received any other type of payment in lieu of cash.

Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

Since claimant mistakenly reported net, rather than gross, wages, the administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$146.00 pursuant to Iowa Code § 96.3(7) for the three weeks ending June 7, 2014.

DECISION:

The July 7, 2014 (reference 03) unemployment insurance decision is affirmed. Wages were incorrectly reported. The claimant was overpaid unemployment insurance benefits in the amount of \$146.00.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css