

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BARBARA J KUNKEL**  
Claimant

**APPEAL NO. 07A-UI-07972-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 02/11/07 R: 01  
Claimant: Appellant (2)**

Section 96.3(7) – Overpayment of Benefits

**STATEMENT OF THE CASE:**

Barbara Kunkel filed a timely appeal from the August 13, 2007, reference 03, decision that concluded she had been overpaid unemployment insurance benefits in the amount of \$300.00 for three weeks between July 15 and August 4, 2007 as a result of a disqualification decision. After due notice was issued, a hearing was held on September 5, 2007. Ms. Kunkel participated in the hearing. The administrative law judge took official notice of the Agency's record of benefits paid to the claimant. The hearing in this matter was consolidated with the hearing in Appeal Number 07A-UI-07971-JTT and the administrative law judge hereby takes official notice of the decision entered in that matter.

**ISSUE:**

Whether the claimant has been overpaid benefits of \$300.00 for the three-week period of July 15 to August 4, 2007.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Barbara Kunkel established a claim for benefits that was effective February 11, 2007 and received benefits. During the three-week period of July 15 through August 4, 2007, Ms. Kunkel received benefit totaling \$300.00.

The overpayment issue in this case was created by a disqualification decision that has now been reversed. See Appeal Number 07A-UI-07971-JTT.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because the decision that Ms. Kunkel failed to report as directed has been reversed, the administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$300.00 for the period of July 15 through August 4, 2007.

The evidence presented at the hearing suggests there may have been a refusal of suitable work. If the Agency concludes there has been a refusal of suitable work, that may very well result in a separate overpayment decision affecting the same time period at issue herein.

**DECISION:**

The August 13, 2007, reference 03, overpayment decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$300.00. However, if the Agency concludes there has been a refusal of suitable work, that may very well result in a separate overpayment decision affecting the same time period at issue herein.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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