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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0161**

Benji E. Rodgers,
Relator,

vs.

Department of Employment and Economic Development,
Respondent.

**Filed December 10, 2012
Affirmed
Kalitowski, Judge**

Department of Employment and Economic Development
File No. 28822663-3

Benji E. Rodgers, Cherokee, Arizona (pro se relator)

Lee B. Nelson, Amy R. Lawler, Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent)

Considered and decided by Kalitowski, Presiding Judge; Halbrooks, Judge; and
Klaphake, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Relator Benji E. Rodgers challenges an unemployment-law judge's (ULJ) determination that he must repay an overpayment of extended unemployment compensation. We affirm.

DECISION

In July 2011, relator erroneously received extended unemployment compensation (EUC) from Minnesota. Relator was not entitled to the EUC benefits because he had a pre-existing account with unexhausted EUC benefits in Texas. Relator argues that he received the overpayment because he relied on erroneous advice from a Minnesota Department of Employment and Economic Development (DEED) employee, and therefore he should not be required to return the overpayment. We disagree.

When reviewing a ULJ's decision, we may affirm or remand for further proceedings, or reverse or modify if the relator's substantial rights were prejudiced because the findings, conclusion, or decision are affected by an error of law. Minn. Stat. § 268.105, subd. 7(d)(4) (2010). The interpretation of a statute is a question of law, which we review de novo. *Vasseei v. Schmitt & Sons Sch. Buses, Inc.*, 793 N.W.2d 747, 750 (Minn. App. 2010).

“Any applicant who . . . has received any unemployment benefits that the applicant was held not entitled to, must promptly repay the unemployment benefits” Minn. Stat. § 268.18, subd. 1(a) (2010). And “[t]here is no equitable or common law

denial or allowance of unemployment benefits.” Minn. Stat. § 268.069, subd. 3 (2010); *Voge v. Dep’t of Emp’t & Econ. Dev.*, 794 N.W.2d 662, 667 (Minn. App. 2011).

“Words and phrases [in a statute] are construed according to . . . their common and approved usage.” Minn. Stat. § 645.08 (2010). And “[t]his court will defer to an agency’s interpretation of its own statutes unless such interpretation is in conflict with the express purpose of the statute and the legislature’s intent.” *Carlson v. Augsburg College*, 604 N.W.2d 392, 394 (Minn. App. 2000). The purpose of the Minnesota unemployment insurance program is to promote the public good “by providing workers who are unemployed through no fault of their own a temporary partial wage replacement to assist the unemployed worker to become reemployed.” Minn. Stat. § 268.03, subd. 1 (2010). The program “is remedial in nature and must be applied in favor of awarding unemployment benefits. . . . In determining eligibility or ineligibility for benefits, any statutory provision that would preclude an applicant from receiving benefits must be narrowly construed.” Minn. Stat. § 268.031, subd. 2 (2010).

Here, the plain meaning of the law is clear and unambiguous: an applicant who receives benefits to which he is later found not entitled must repay the benefits. Minnesota’s prohibition against equitable distribution of unemployment benefits requires that overpayments must be repaid without exception. *See Appelhof v. Comm’r of Jobs & Training*, 450 N.W.2d 589, 591-92 (Minn. App. 1990) (finding that “[a] subsequent determination which denies benefits already paid is considered an overpayment, subject to Minn. Stat. § 268.18,” and therefore relator “is required to repay the benefits he erroneously received.”).

In addition, the ULJ's determination that relator repay the overpayment did not preclude relator from receiving unemployment benefits; relator has received the EUC benefits from Texas. Therefore, the ULJ's interpretation that the statute requires repayment does not conflict with the purpose of the Minnesota unemployment insurance program.

Finally, relator's argument that he relied on erroneous advice from a DEED employee is not persuasive. Relator refers to only one conversation with a state employee throughout the entire record: a conversation with a customer service representative from the Texas Workforce Commission—not a DEED employee—in November 2011. This conversation occurred approximately four months after relator received the EUC benefits at issue. Therefore, relator could not have relied on this conversation when he applied for and received the EUC benefits from Minnesota in July 2011. Moreover, even if relator had relied on erroneous advice, the obligation to repay an overpayment is absolute.

The plain language of the statute mandates that any overpayment be repaid without exception; alleged misinformation is not a defense to a determination of overpayment. Because the parties do not dispute that an overpayment occurred, the ULJ did not err in determining that relator is obligated to repay the EUC benefits he received in error.

Affirmed.