

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

TAWNI J PETERS

Claimant

**IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS & RECOVERY**

APPEAL NO. 22A-UI-15883-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/14/21

Claimant: Appellant (1)

Iowa Code Sections 96.16(4) & 96.5(13) – Unpaid Fraud Overpayment Balance

STATEMENT OF THE CASE:

On August 7, 2022, Tawni Peters (claimant) filed a timely appeal from the August 3, 2022, (reference 04) decision that denied benefits in connection with the March 14, 2021 original claim, based on the Agency representative's determination the claimant owed an unpaid fraud overpayment balance. After due notice was issued, a hearing was held on September 8, 2022. Claimant participated. Jennifer Vogt, Investigator, represented Iowa Workforce Development Investigations & Recovery Unit. There were three appeal numbers set for a consolidated hearing: 22A-UI-15878-JT-T, 22A-UI-15882-JT-T, and 22A-UI-15883-JT-T. Department Exhibits A-1 through D were received into evidence. The administrative law judge took official notice of the Iowa Workforce Development record regarding the outstanding overpayment and penalty balance.

ISSUE:

Whether the claimant is disqualified for unemployment insurance benefits due to an outstanding fraud overpayment balance.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

In connection with a March 15, 2020 original claim, Tawni Peters (claimant) was overpaid \$9,204.00 in Pandemic Emergency Unemployment Compensation (PEUC) for 24 weeks between December 27, 2020 and June 12, 2021, and \$3,900.00 in Federal Pandemic Unemployment Compensation (FPUC) for 13 weeks between January 3, 2021 and June 5, 2021, due to the claimant's knowing and intentional underreporting of wages earned with Central Standard Waukee, L.L.C. Based on the intentional misrepresentation of wages, a 15 percent penalty was added to the PEUC and FPUC overpayment amounts. See Appeal Numbers 22A-UI-15878-JT-T and 22A-UI-15882-JT-T.

The claimant established a new original claim that was effective March 14, 2021.

The claimant has not repaid the outstanding overpayment amounts associated with the March 15, 2020 original claim. At the time of the appeal hearing, Iowa Workforce Development records reflected a \$15,069.60 total outstanding overpayment balance.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.16(4)(a) and (b) provides:

Misrepresentation.

a. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph "a" and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

Iowa Code section 96.5(13) provides:

Overpayment resulting in disqualification. If the department finds that an individual has received benefits by reason of misrepresentation pursuant to section 96.16, such individual shall be disqualified for benefits until the balance of the benefits received by the individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

Iowa Admin. Code r. 871- 25.1 provides:

Definitions.

"Fraud" means the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or by the concealment or failure to disclose that which should have been disclosed, which deceives and *is intended to deceive another* so that they, or the department, shall not act upon it to their, or its, legal injury.


"Misrepresentation" means to give misleading or deceiving information to or omit material information; to present or represent in a manner at odds with the truth.

The claimant is disqualified for unemployment insurance benefits in connection with the March 14, 2021, original claim due to an \$15,069.60 outstanding fraud overpayment balance.

The claimant's outstanding overpayment balance derives from the claimant's knowing and intentional false underreporting of earned wages, whereby the claimant intentionally deceived Iowa Workforce Development into overpaying benefits. The claimant is disqualified for benefits until the balance of the benefits received due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

DECISION:

The August 3, 2022, (reference 04) decision is **AFFIRMED**. The claimant is disqualified for unemployment insurance benefits in connection with the March 14, 2021, original claim due to an \$15,069.60 outstanding fraud overpayment balance. The claimant is disqualified for benefits until the balance of the benefits received due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.



James E. Timberland
Administrative Law Judge

October 6, 2022

Decision Dated and Mailed

jt/ac

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.