

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLEY A BERINOBIS
Claimant

APPEAL NO. 24A-UI-04567-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/22/20
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

On May 10, 2024, Ashley Berinobis (claimant) filed a timely appeal from the May 6, 2024 (reference 05) decision that disqualified the claimant for unemployment insurance benefits, based on unpaid fraud overpayment balance. After due notice was issued, a hearing was held on May 28, 2024. Claimant participated. Debbie Rumbaugh, Investigator 2, represented Iowa Workforce Development. Claimant's Exhibit A through E and Department Exhibits 1 through 9 were received into evidence. There were five appeal numbers set for a consolidated hearing: 24AUI04563JTT, 24AUI04564JTT, 24AUI04565JTT, 24AUI04566JTT, and 24AUI04567JTT. The administrative law judge took official notice of the following IWD administrative records: DBIN, KPXYX, WAGEB, WAGEC, and KLOG.

ISSUE:

Whether the claimant is disqualified for benefits based on an unpaid fraud overpayment balance.

FINDINGS OF FACT:

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

Ashley Berinobis (claimant) established an original claim for benefits that was effective March 22, 2020. Ms. Berinobis received regular benefits, PEUC benefits, FPUC benefits and LWAP benefits in connection with the claim. Through the May 6, 2024 (reference 01, 02, 03 and 04) decisions, an IWD investigator concluded not only that the claimant was overpaid regular benefits, PEUC, FPUC and LWAP but that the overpayments were based intentional misrepresentation or fraud. The reference 01, 02, 03 and 04, decisions have been modified on appeal to remove the intentional misrepresentation/fraud determination. See Appeal Numbers 24AUI04563JTT, 24AUI04564JTT, 24AUI04565JTT, and 24AUI04566JTT.

REASONING AND CONCLUSIONS OF LAW:

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.

[Emphasis added]

Because the intentional misrepresentation/fraud determination has been removed from each of the overpayment determinations, the claimant is not disqualified from unemployment insurance benefits due to an outstanding fraud overpayment balance. The claimant must meet all other eligibility requirements.

DECISION:

The May 6, 2024 (reference 05) decision is REVERSED. Because the intentional misrepresentation/fraud determination has been removed from each of the overpayment determinations, the claimant is not disqualified from unemployment insurance benefits due to an outstanding fraud overpayment balance. The claimant must meet all other eligibility requirements.



James E. Timberland
Administrative Law Judge

June 11, 2024
Decision Dated and Mailed

scn

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
6200 Park Ave Suite 100
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
6200 Park Ave Suite 100
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 adquiriera 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.