

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSH J KIRBY
Claimant

APPEAL NO. 21A-UI-23077-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/16/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On October 17, 2021, Josh Kirby (claimant/appellant) appealed the decision dated October 7, 2021 (reference 03) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$7,817.00 for the 14-week period between August 23 and November 28, 2020 as a result of a disqualification decision.

A telephone hearing was held on December 20, 2021, pursuant to due notice. Claimant participated personally and was represented by Attorney Bret Larson. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant overpaid regular, state unemployment insurance benefits?

FINDINGS OF FACT:

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

The administrative record shows claimant received regular, state unemployment insurance benefits in the amount of \$559.00 per week for a total of 14 weeks, from the benefit week ending August 29, 2020 and continuing through the benefit week ending November 28, 2020. The total amount of regular, state unemployment insurance benefits paid during that period is \$7,817.00.

Claimant was subsequently determined to be disqualified from benefits in a decision dated December 15, 2020. That decision was subsequently affirmed in an administrative law judge decision dated March 5, 2021 and remains in force. See 21A-UI-02085-A2-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated October 7, 2021 (reference 03) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$7,817.00 for the

14-week period between August 23 and November 28, 2020 as a result of a disqualification decision is AFFIRMED.

Iowa Code section 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) (a) 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.

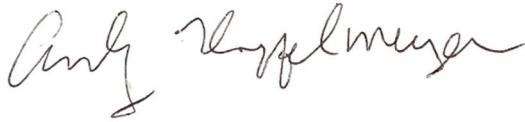
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Because claimant received benefits totaling \$7,817.00 for which he was later found to be disqualified he has been overpaid in that amount.

DECISION:

The decision dated October 7, 2021 (reference 03) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$7,817.00 for the 14-week period between August 23 and November 28, 2020 as a result of a disqualification decision is AFFIRMED.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

January 27, 2022

Decision Dated and Mailed

abd/abd

Note to Claimant:

If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If this decision determines you have been overpaid federal CARES Act benefits you may request a waiver of the overpayment. Instructions for requesting a waiver can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.