

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JUSTIN D HENKE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-UI-02876-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.5(13) – Disqualification due to Outstanding Fraud Overpayment
Iowa Code § 96.16(4) – Offenses and Misrepresentation

STATEMENT OF THE CASE:

The claimant/appellant, Justin D. Henke, filed an appeal from the March 25, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was ineligible for unemployment insurance benefits due to an outstanding fraud overpayment balance.

The parties were properly notified of the hearing. A telephone hearing was scheduled on May 5, 2020. The hearing began but no testimony was taken and the hearing was continued to May 6, 2020 to allow the claimant to receive proposed exhibits.

A telephone hearing was completed on May 6, 2020. The claimant participated personally. IWD Investigation and Recovery Unit elected to participate by writing only and IWD Exhibits 1-4 were admitted into evidence. Claimant Exhibits A and B were admitted into evidence also. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

Note to claimant: Additional information about food, housing, and other resources, can be found by dialing 211 or at www.211iowa.org

ISSUE:

Is the claimant ineligible for 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: The claimant filed a claim for unemployment insurance benefits with an effective date of July 18, 2010. During that claim year, an investigatory audit was conducted regarding the claimant’s failure to report all wages while concurrently filed weekly continued claims for benefits. Consequently, a decision was issued on August 2, 2011, which found that the claimant was

overpaid benefits of \$3,363.00, due to misrepresentation or fraud. (Department Exhibit 3) The claimant did not appeal the decision and it became final.

The claimant then established a claim with an effective date of March 22, 2020 in response to losing his employer due to COVID-19. The claimant has serious health issues and is being severely impacted by the loss of employment (Claimant Exhibits A-B).

Effective July 1, 2018, a claimant with an overpayment by reason of misrepresentation is disqualified to receive unemployment insurance benefits until the overpayment interest and associated fees and penalties are paid in full. Iowa Code section 96.5(13). To date, the claimant has failed to pay the outstanding overpayment amount owed, including interest, penalties, and lien fees. The current outstanding balance owed is \$3,363.00 (Department Exhibit 2).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is ineligible for benefits due to an outstanding fraud overpayment. Benefits are denied at this time, and until the balance owed is paid.

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

4. 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.

Iowa Workforce Development established an overpayment due to misrepresentation/fraud (Department Exhibit 2). The decision is final at this time. Therefore, the administrative law judge concludes the claimant has an established overpayment derived from fraud/misrepresentation.

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.

The administrative law judge recognizes the claimant has filed his current claim effective March 22, 2020, due to hardship and losing his job due to the COVID-19 pandemic. Based on the evidence presented, the administrative law judge concludes the claimant currently owes a balance of \$3,363.00 (Department Exhibit 1) due to a decision issued on August 2, 2011

(Department Exhibit 2) which found that the claimant was overpaid benefits and engaged in misrepresentation pursuant to Iowa Code § 96.16(4). The claimant owes any additional interest, penalties and lien fees. Because this unpaid fraud overpayment balance remains unpaid, the claimant is not eligible for benefits at this time.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The March 25, 2020 (reference 02) unemployment insurance decision is affirmed. The claimant is ineligible for benefits at this time due to an unpaid fraud overpayment balance. Benefits are withheld until the claimant has paid the unpaid fraud overpayment balance, plus penalties, interest, and lien fees, and provided claimant is otherwise eligible.



Jennifer L. Beckman
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May 15, 2020
Decision Dated and Mailed

jlb/scn