

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MEGAN M EBLEN
Claimant

DR. ROBERT H SHARP PC
Employer

APPEAL 22A-UI-09409-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment

STATEMENT OF THE CASE:

On April 14, 2022, claimant Megan M. Eblen filed an appeal from the April 8, 2022 (reference 01) unemployment insurance decision that found the claimant was overpaid \$574.00 for the two-week period between April 19, 2020 and May 2, 2020 due to unreported wages. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Monday, June 13, 2022. Appeal numbers 22A-UI-09409-LJ-T and 22A-UI-09410-LJ-T were heard together and created one record. The claimant, Megan M. Eblen, participated. The employer, Dr. Robert H. Sharp, P.C., participated through Dori Hampel, Office Manager. Employer's Exhibit 1 was received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Dr. Robert H. Sharp, P.C., on August 24, 2018. She was employed as a full-time front desk worker and dispensary employee.

The employer closed on March 15, 2020, due to the rapidly spreading COVID-19 pandemic. They remained closed for six weeks and officially reopened on May 11, 2020. There was no work available for the claimant during that time period. However, in April 2020, the employer received stimulus money from the government and paid employees a portion of their regular wages.

According to the terms of the stimulus funds, employees were to receive 80% of their regular pay-period wages from the prior calendar year. The employer paid claimant \$837.38 in gross wages for the two-week period between April 20, 2020 and May 3, 2020. The employer notified their employees as soon as it could about the funds, but admittedly they were not able to provide much notice due to the funds coming the day before payroll was completed. Claimant

did not report any wages when filing her weekly continued claims for the weeks ending April 25, 2020 or May 2, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant has been overpaid unemployment insurance benefits.

Iowa Code § 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.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

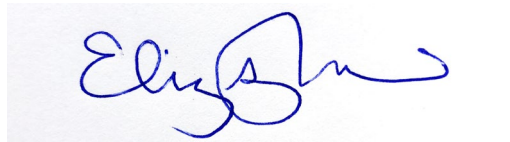
b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid...

Here, claimant received approximately \$418.00 each week in what can best be equated to wage interruption insurance payments under Iowa Administrative Code rule 24.13(3)(a). These were payments that claimant received due to wage interruption because of the global pandemic, out of the control of any party. Therefore, they are deductible dollar-for-dollar from claimant's unemployment insurance weekly benefit amount. Because the \$418.00 claimant received from the employer far exceeds her \$287.00 weekly benefit amount, the administrative law judge concludes claimant was not entitled to any benefits for either week that she received the stimulus funds from the employer.

The administrative law judge concludes that the claimant has been overpaid regular unemployment insurance benefits in the amount of \$574.00 for the two-week period ending May 2, 2020. That amount must be repaid to the agency.

DECISION:

The April 8, 2022 (reference 01) unemployment insurance decision is affirmed. Claimant has been overpaid \$574.00 in regular unemployment insurance benefits, and those benefits must be repaid.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 14, 2022
Decision Dated and Mailed

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