

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MANDI NELSEN
Claimant

APPEAL 22A-UI-00242-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/12/20
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Mandi Nelsen, the claimant/appellant, filed an appeal from the November 19, 2021, (reference 05) unemployment insurance decision that concluded she was overpaid Lost Wage Assistance Payments (LWAP) benefits in the gross amount of \$900.00. The parties were properly notified of the hearing. A telephone hearing was held on January 24, 2022. Ms. Nelsen participated and testified. Clint Nelsen, Ms. Nelsen's husband, testified in her favor. The administrative law judge took official notice of the administrative record.

ISSUES:

Has Ms. Nelsen been overpaid LWAP benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Nelsen filed an initial claim for REGULAR UI benefits effective April 12, 2020. Ms. Nelsen filed weekly claims from April 12, 2020 through August 15, 2020. Ms. Nelsen received REGULAR UI benefits for those weeks, including benefits in the gross amount of \$2,470.00 for 10 weeks between June 7, 2020 and August 15, 2020. Ms. Nelsen also received LWAP benefits in the gross amount of \$900.00 for three weeks between July 26, 2020 and August 15, 2020.

The Lost Wage Assistance Program was created by presidential Executive Order 8, signed on August 8, 2020. To receive LWAP benefits in any given week, a claimant must be eligible to receive at least \$100.00 in unemployment benefits per week, and the individual must self-certify that he or she is unemployed or partially unemployed as a result of the COVID-19 pandemic.

Almost one year after she filed her initial claim, and had already received REGULAR UI benefits, IWD issued two decisions: a February 15, 2021 (reference 01) decision finding Ms. Nelsen eligible for REGULAR UI benefits as of April 12, 2020, and a reference 02 decision finding Ms. Nelsen not eligible for REGULAR UI benefits as of June 7, 2020. This means, Ms. Nelsen is eligible for REGULAR UI benefits from April 12, 2020 through June 6, 2020, but she is not eligible for REGULAR UI benefits as of June 7, 2020. Ms. Nelsen appealed the reference 02 decision to the Iowa Workforce Development Appeals Bureau. The administrative law judge's decision, in Appeal 22A-UI-00237-DZ-T, affirmed the reference 02 decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Nelsen has been overpaid LWAP 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.

Since Ms. Nelsen is not eligible for REGULAR UI benefits as of June 7, 2020, she is also not eligible for LWAP benefits as of June 7, 2020. Ms. Nelsen has been overpaid LWAP benefits in the gross amount of \$900.00 for three weeks between July 26, 2020 and August 15, 2020, which should be repaid.

DECISION:

The November 19, 2021, (reference 05) unemployment insurance decision is affirmed. Ms. Nelsen has been overpaid LWAP benefits in the gross amount of \$900.00, which must be repaid.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
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Fax 515-478-3528

February 11, 2022
Decision Dated and Mailed

dz/scn

NOTE TO MS. NELSEN:

- This decision determines you have been overpaid LWAP benefits, and the administrative law judge does not have authority to waive the overpayment.
- 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.