

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**STEVE M CORCORAN**  
Claimant

**APPEAL 23A-UI-03732-AR-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20  
Claimant: Appellant (4)**

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Iowa Code § 96.3(7) – Overpayment of Benefits  
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation  
Iowa Code § 96.16(4) – Offenses and Misrepresentation  
Iowa Code § 96.5(8) – Administrative Penalty  
Iowa Admin. Code r. 871—25.1 – Misrepresentation & Fraud

**STATEMENT OF THE CASE:**

On April 11, 2023, the claimant filed an appeal from the April 6, 2023 (reference 02) unemployment insurance decision which concluded the claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits because he failed to accurately report earnings while concurrently filing weekly claims for unemployment insurance benefits. Iowa Workforce Development (IWD) also imposed a 15% administrative penalty due to misrepresentation.

The parties were properly notified of the hearing. A telephone hearing was held on May 23, 2023. Appeal numbers 23A-UI-03729-AR-T, 23A-UI-03732-AR-T, 23A-UI-03734-AR-T, 23A-UI-03735-AR-T, and 23A-UI-03736-AR-T were heard together and created one record. Claimant, Steve M. Corcoran, participated personally. IWD participated through Investigator II Seth Jones. IWD Exhibits 1 through 3 were admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Did IWD correctly determine that the claimant was overpaid FPUC benefits, and was the overpayment amount correctly calculated?  
Did IWD properly impose a penalty based upon the claimant's misrepresentation?

**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 March 15, 2020. Claimant's weekly benefit amount was \$333.00.

Even though all claimants who file a claim online are offered and agree to read the Unemployment Insurance Handbook, claimant did not do so. The Unemployment Insurance

Handbook includes instructions for properly filing claims and informs claimants that failure to follow the instructions could result in a denial or overpayment of benefits. The handbook also informs claimants that they should call IWD customer service for help if they do not understand the information in the handbook.

With respect to "Reporting Earnings," the handbook states:

Gross earnings or gross wages are your earnings before taxes or other payroll deductions are made. Earnings or wages must be reported on the weekly claim during the week the wages are earned, not when the wages are paid. Earnings must be reported even if the payment has not been received yet. To calculate the amount to report, the individual should multiply the number of hours worked by the hourly wage. Individuals should report the full gross amount of earnings and IWD will calculate any deductions. If an individual earns \$15 or more over their WBA, they will not receive a benefit payment.

With respect to "Partially deductible from the benefit payment based on a formula," the handbook states:

You may earn up to 25 percent of your WBA before the benefit payment is reduced, but there is still a requirement to report all earnings even if under 25 percent. Earnings higher than 25 percent will reduce your benefit payment. If you earn \$15 or more over your WBA, you will not receive a benefit payment for that week. This type of income includes:

- Wages
- Holiday pay
- Sick leave
- Stand-by pay
- Tips, gratuities, commission and incentive pay
- Strike pay - only deductible when received for services rendered.
- Any compensation other than cash (i.e. room and board, cell phone)

The handbook also provides in part:

#### Preparing to File a Weekly Claim

Individuals should have the following information available when filing their weekly claim:

- SSN
- PIN
- Total amount of gross wages (before deductions) earned during the week
- Total amount of gross holiday pay, gross vacation and severance, if applicable

To calculate gross earnings, multiply the number of hour worked (Sunday through Saturday) times the rate of pay. Example: 10 hours X \$12.00/hour = \$120.00 in gross earnings

In addition, each week the claimant would complete a weekly continued claim online, he would see a screen online which provided:

It is important that you answer all questions truthfully.

**WARNING:** Attempting to claim and receive unemployment insurance benefits by entering false information can result in loss of benefits, fines and imprisonment.

In March 2020, claimant was working for Northeast Iowa Community Action Corporation (employer). Claimant's hours were impacted by the COVID-19 pandemic. He is a driver for the employer, and he is responsible for taking patients to dialysis. Initially, after a period of approximately a month, he was the only driver. However, over time, his hours became less regular because other drivers were also returning to work.

Employer paid claimant between \$13.67 and \$13.94 per hour over the period at issue.

As a result of a wage crossmatch, IWD conducted an audit and discovered that claimant received wages from employer between March 15, 2020, and June 5, 2021, but claimant reported significantly different amounts than employer did. IWD contacted employer to verify claimant's wages earned during that time period. Employer confirmed the hours claimant performed work and was paid wages during the weeks between March 15, 2020, and June 5, 2021. The audit indicated that claimant was overpaid unemployment insurance benefits most weeks because the amount he actually earned often disqualified him from receiving unemployment insurance benefits.

After reviewing employer's verification of wages, Jones notified claimant of an investigation and scheduled an interview. Claimant participated in the interview. Claimant does not dispute the amounts employer reported. Claimant told Jones that he attempted to base the amount reported each week on the hours he worked, but he essentially made up a number to report on his weekly claim because he did not keep a close record of his hours worked or earnings each week. He does not regularly check his electronic banking records and does not receive a paystub. Claimant never sought clarification from IWD in order to accurately report his earnings. Claimant testified that he has a difficult relationship with money, in general, and was basing his behavior on his observations of others who were in a similar situation to him.

Because the claimant did not accurately report his wages, an overpayment of \$5,014.00 in regular state unemployment insurance benefits for 34 weeks between March 23, 2020, and March 13, 2021, was determined by IWD. The agency established the overpayment based upon the incorrect payments made to the claimant:

WEEK ENDING	WAGES REPORTED	WAGES EARNED	BENEFITS PAID	BENEFITS ENTITLED	UNDERPAYMENT	OVERPAYMENT
03/21/20	425	398	0	0	0	0
03/28/20	425	487	0	0	0	0
04/04/20	0	396	333	0	0	333
04/11/20	0	410	333	0	0	333
04/18/20	200	463	216	0	0	216
04/25/20	850	533	0	0	0	0
05/02/20	85	642	331	0	0	331
05/09/20	85	587	331	0	0	331
05/16/20	160	587	256	0	0	256
05/23/20	440	587	0	0	0	0
05/30/20	440	587	0	0	0	0
06/06/20	500	587	0	0	0	0
06/13/20	440	587	0	0	0	0
06/20/20	400	587	0	0	0	0

06/27/20	775	587	0	0	0	0
07/04/20	370	562	0	0	0	0
07/11/20	400	394	0	0	0	0
07/18/20	400	451	0	0	0	0
07/25/20	325	413	91	0	0	91
08/01/20	340	269	76	147	71	0
08/08/20	340	358	76	0	0	76
08/15/20	335	399	81	0	0	81
08/22/20	343	522	73	0	0	73
08/29/20	355	457	0	0	0	0
09/05/20	328	427	88	0	0	88
09/12/20	338	475	78	0	0	78
09/19/20	367	519	0	0	0	0
09/26/20	365	557	0	0	0	0
10/03/20	347	492	69	0	0	69
10/10/20	322	498	94	0	0	94
10/17/20	307	367	109	0	0	109
10/24/20*	309	309	107	107	0	0
10/31/20	317	495	99	0	0	99
11/07/20	286	375	130	0	0	130
11/14/20	278	436	138	0	0	138
11/21/20	283	440	133	0	0	133
11/28/20	288	466	128	0	0	128
12/05/20	279	391	137	0	0	137
12/12/20	269	126	147	290	143	0
12/19/20	267	126	149	290	141	0
12/26/20	278	535	138	0	0	138
01/02/21	280	522	136	0	0	136
01/09/21	278	543	138	0	0	138
01/16/21	286	598	130	0	0	130
01/23/21	285	546	131	0	0	131
01/30/21	278	470	138	0	0	138
02/06/21	269	466	147	0	0	147
02/13/21	292	578	124	0	0	124
02/20/21	289	560	127	0	0	127
02/27/21	272	515	144	0	0	144
03/06/21	292	554	124	0	0	124
03/13/21	286	477	130	0	0	130
			<b>SUBTOTAL:</b>		<b>355</b>	<b>4,931</b>

The administrative law judge notes that there was a typographical or mathematical error with respect to the week ending October 24, 2020. The administrative law judge has corrected the error.

Claimant was determined to be disqualified from receiving benefits during the following weeks, based on benefit-week-end date: April 4, 2020, April 11, 2020, April 18, 2020, May 2, 2020, May 9, 2020, May 16, 2020, July 25, 2020, and the entire period from the week ending January 2, 2021, through March 13, 2021. For the weeks ending July 5, 2020, claimant received FPUC benefits in the amount of \$600.00 per week. For the weeks between January 2, 2021, and March 13, 2021, claimant received FPUC benefits in the amount of \$300.00 per week. Because claimant was determined to be ineligible for unemployment insurance benefits during those weeks, he was also determined to be ineligible for FPUC benefits. The total FPUC benefit received during weeks in which claimant was disqualified from receiving the benefits was \$7,500.00.

In addition to the overpayment, a 15% penalty was imposed, due to the overpayment arising from the claimant's misrepresentation or intentional omission of wages to collect benefits.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes IWD did correctly establish claimant was overpaid FPUC benefits, and the total amount overpaid was correctly calculated.

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.

Iowa Admin. Code r. 871—24.18 provides:

Wage-earnings limitation.

An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one fourth of the individual's weekly benefit amount.

Under Iowa law a claimant is considered partially unemployed in any week when employed in their regular job the individual works less than their regular full-time week and earns less than the individual's weekly benefit amount plus fifteen dollars. See Iowa Code § 96.19(38)(b)(1). When a claimant is partially employed and filing for unemployment benefits a claimant cannot earn wages, bonus pay, holiday pay, and or vacation pay that is more than their weekly benefit amount plus \$15.00. See Iowa Admin. Code r. 871—24.18.

Public Law 116-136, Section 2104 of the CARES Act created a program in which an additional \$600.00 per week was payable to claimants who were eligible for at least \$1.00 per week in benefits stemming from other programs including regular unemployment insurance funded by the State of Iowa, Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, Iowa Extended benefits, and Trade Act benefits. This initial program ran from March 29, 2020 through July 25, 2020. Claimants were only eligible to receive FPUC payments if they were entitled to receive benefits from another applicable program. The payments of FPUC benefits were automatic so long as a claimant was determined to be eligible under one of the other applicable programs. On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes Division N, Title II, Subtitle A, the Continued Assistance Act. Section 203 reauthorized the FPUC program for weeks of unemployment beginning after December 26, 2020, and ending on or before March 14, 2021, and modified the weekly supplement payment to \$300.00. On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (ARPA). Section 9103 of ARPA amends Section

2104 of the CARES Act of 2020 and extended the FPUC program for weeks of unemployment ending on or before September 6, 2021. On May 11, 2021, Governor Reynolds announced that Iowa would end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for FPUC benefits in Iowa was the week ending June 12, 2021.

Public Law 116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment. – In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

If the claimant would have properly reported his wages from his employer, he would not have been paid regular unemployment benefits for the weeks enumerated above in which he filed his weekly continuing claims for benefits because his gross wages exceeded his weekly benefit amount, plus \$15.00 each week. Because the claimant was not eligible for regular unemployment insurance benefits for the weeks listed above, he was also not eligible for the supplemental FPUC payments for those weeks. As such, the amount of overpayment determined of \$7,500.00 in FPUC benefits for 18 weeks between March 29, 2020, and March 13, 2021, is correct.

The final question is whether the imposition of a 15% penalty due to fraud or misrepresentation was warranted.

The Department is authorized to impose an administrative penalty when it determines that a claimant has within the thirty-six preceding calendar months, willfully and knowing failed to disclose a material fact with the intent to obtain unemployment benefits to which the individual is not entitled. Iowa Code section 96.5(8).

Iowa Code section 96.16(4)(a) and (b) provide in part:

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.

b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph "a" and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

"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. Iowa Admin. Code r. 871—25.1.

"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. Iowa Admin. Code r. 871—25.1

Public Law 116-136, Sec. 2104(f) provides in pertinent part:

EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(f) FRAUD AND OVERPAYMENTS. – (1) IN GENERAL. –

If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual –

(A) shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

UIPL No. 20-21 issued on May 5, 2021, provides that “[w]ithin the context of the CARES Act, states must apply a minimum 15 percent monetary penalty to an individual’s overpayment when the state determines that such an overpayment was made to an individual due to fraud”. See Page 4. “Fraud includes instances where an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact.” *Id.* page 4–5; see *also* Section 251(a) of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) (Pub. L. 112-40).

Claimant credibly testified that he attempted to report his wages correctly, and that his reports were estimations based on the number of hours he worked each week. Additionally, for three weeks claimant overreported his wages, leading to an underpayment. IWD has not demonstrated that claimant acted with intent to deceive. Notwithstanding the instructions in the handbook, claimant did not willfully or knowingly misreport wages earned on his weekly claims. There is no evidence that claimant willfully or knowingly failed to report his wages correctly. Therefore, the 15% penalty was not properly imposed.

**DECISION:**

The April 6, 2023 (reference 02) unemployment insurance decision is MODIFIED IN FAVOR OF THE APPELLANT. Claimant is overpaid FPUC benefits in the gross amount of \$7,500.00, and is required to repay the agency this overpayment balance. There is no evidence that claimant engaged in misrepresentation. The 15% penalty is removed.



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Alexis D. Rowe  
Administrative Law Judge

May 24, 2023  
Decision Dated and Mailed

ar/mh



**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  
4<sup>th</sup> Floor – Lucas Building  
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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  
4th Floor – Lucas Building  
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 se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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.