

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

JASON M BOGE
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 22A-UI-17829-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/28/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

On October 10, 2022, Jason M. Boge (claimant) appealed an unemployment insurance decision dated October 10, 2022, reference 11, that concluded they were overpaid \$1,627.85 in unemployment insurance benefits for 12 weeks. After due notice was issued, a hearing was held by telephone conference on November 1, 2022, and was consolidated with the hearing for appeal 22A-UI-17828-SC-T. The claimant participated personally. Mondelez Global LLC (employer) did not respond to the hearing notice and did not participate. No exhibits were admitted into the record. The administrative law judge took official notice of the administrative record specifically the claimant's claim history and the fact-finding documents.

ISSUE:

Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed reactivated the claim for unemployment insurance benefits with an effective date of July 10, 2022, following a work-related injury. The claimant received temporary total disability (TTD) payments effective the same date. The decision finding the claimant's TTD payments were not properly deducted and they were eligible for \$50.00 a week in unemployment insurance benefits was affirmed in the administrative law judge's decision in appeal 22A-UI-17828-SC-T.

The following chart shows the benefits the claimant received, the benefits to which they were entitled, and the overpayment amount for the week:

Week ending	Benefits Received	Benefits Entitled	Overpayment
July 16, 2022	\$165.00	\$50.00	\$115.00
July 23, 2022	\$165.00	\$50.00	\$115.00
July 30, 2022	\$165.00	\$50.00	\$115.00
August 6, 2022	\$165.00	\$50.00	\$115.00
August 13, 2022	\$165.00	\$50.00	\$115.00
August 20, 2022	\$165.00	\$50.00	\$115.00
August 27, 2022	\$165.00	\$50.00	\$115.00
September 3, 2022	\$165.00	\$50.00	\$115.00
September 10, 2022	\$165.00	\$50.00	\$115.00
September 17, 2022	\$165.00	\$50.00	\$115.00
September 24, 2022	\$459.00	\$50.00	\$409.00

During the week ending October 1, 2022, Iowa Workforce Development (IWD) cancelled the \$459.00 payment to the claimant but the \$68.85 in taxes withheld at the claimant's request had already been distributed to the appropriate federal and state agencies on the claimant's behalf.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was overpaid unemployment insurance benefits, which must be repaid.

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. [Emphasis added.]

Since the decision finding the claimant was only entitled to \$50.00 a week based on the TTD payments, the claimant was overpaid \$1,627.85 in regular unemployment insurance benefits. They had ten weeks of an overpayment of \$115.00, one week of \$409.00, and the tax withholding on the last week of \$68.85. The benefits must be repaid, even when the claimant acts in good faith and is not otherwise at fault.

DECISION:

The unemployment insurance decision dated October 10, 2022, reference 11, is AFFIRMED. The claimant was overpaid \$1,627.85 in regular unemployment insurance benefits, which must be repaid.

A handwritten signature in blue ink that reads "Stephanie R Callahan" with a long horizontal flourish extending to the right.

Stephanie R. Callahan
Administrative Law Judge

December 5, 2022
Decision Dated and Mailed

src/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
4th 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.