

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIELLE R BOLTZ
Claimant

COPPES CHIROPRACTIC
Claimant

APPEAL 22A-UI-05316-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.5(5) – Other Compensation

STATEMENT OF THE CASE:

Danielle R Boltz, the claimant/appellant, filed an appeal from the February 16, 2022, (reference 02) unemployment insurance (UI) decision that concluded she was overpaid REGULAR (state) UI benefits in the gross amount of \$540.00 because she failed to report wages earned with this employer for the two weeks of May 3-9, 2020, and May 10-16, 2020. The parties were properly notified about the hearing. A telephone hearing was held on April 8, 2022. Ms. Boltz participated personally. The employer participated through Ryan Coppes, owner. The administrative law judge took official notice of the administrative record. Department's Exhibit 1 was admitted as evidence.

ISSUES:

Did Ms. Boltz correctly report wages earned?
Has Ms. Boltz been overpaid REGULAR (state) UI benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Boltz began working for the employer in March 2019. She works as a full-time receptionist. The employer pays her about \$12.00 per hour.

Ms. Boltz filed weekly claims for 9 weeks from March 21, 2020 through May 16, 2020. Ms. Boltz did not work for the first two weeks of those nine weeks and reported earning \$0.00 for each of those weeks. Over the next seven weeks, Ms. Boltz did not work full-time due to the COVID-19 pandemic. Ms. Boltz reported the wages she earned for the days she worked. However, the employer paid Ms. Boltz for the days she did not work. Due to a lack of communication between the employer and Ms. Boltz, Ms. Boltz did not know the employer was going to pay her for the days she did not work.

Ms. Boltz reported earning wages of \$175.00 for the week of March 29 through April 4, \$250.00 for the week of April 5-11, \$10.00 for the week of April 12-18, \$175.00 for the week of April 19-

25, \$500.00 for the week of April 26 through May 2, and \$0.00 for the weeks of May 3-9 and May 10-16. Based on the wages she reported, IWD paid Ms. Boltz REGULAR (state) UI benefits in the gross amount of \$162.00 for the week of March 29 through April 4, \$87.00 for the week of April 5-11, \$270.00 for the week of April 12-18, \$162.00 for the week of April 19-25, \$0.00 for the week of April 26 through May 2, and \$270.00 for the weeks of May 3-9 and May 10-16.

IWD conducted an audit of Ms. Boltz's wages and asked the employer to report her weekly wages to IWD. The employer reported that it paid Ms. Boltz wages in the gross amount of \$199.00 for the week of March 29 through April 4, \$269.00 for the week of April 5-11, \$132.00 for the week of April 12-18, \$478.00 for the week of April 19-25, \$470.00 for the week of April 26 through May 2, \$491.00 for the week of May 3-9, and \$500.00 for the week of May 10-16. Ms. Boltz testified to the number of hours she worked these weeks, which substantially agrees with the employer's reported wages.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(5) provides, in pertinent part:

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. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by

the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

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.

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.

Ms. Boltz did not report any wages for the 2 weeks of May 3-9, 2020 and May 10-16, 2020. Based on her correct wages, Ms. Boltz was entitled to REGULAR (state) UI benefits in the gross amount of \$0.00 for each of those weeks. For those four weeks, Ms. Boltz received UI benefits in the total gross amount of \$540.00

Since Ms. Boltz did not report her wages for those two weeks and received REGULAR (state) UI benefits in the gross amount of \$540.00 for each of those weeks, but she was entitled to \$0.00 in benefits for those weeks, she has been overpaid REGULAR (state) benefits in the gross amount of \$540.00 (\$540.00 - \$0.00).

DECISION:

The February 16, 2022 (reference 02) decision is AFFIRMED. Ms. Boltz has been overpaid REGULAR (state) UI benefits in the gross amount of \$540.00, which must be repaid.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

April 15, 2022
Decision Dated and Mailed

dz/kmj