

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VICTOR M CHAVEZ
Claimant

APPEAL 24A-UI-05069-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/24/23
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Victor M. Chavez, the claimant/appellant,¹ appealed the Iowa Workforce Development May 21, 2024 (reference 03) unemployment insurance (UI) decision. IWD concluded that IWD overpaid Mr. Chavez \$7,566.00 in REGULAR (state) UI benefits for 13 weeks between January 14, 2024 and April 13, 2024 because the April 13, 2024 (reference 02) UI decision in his previous claim year (effective December 18, 2022) denied him UI benefits based on how his job ended with employer Midwest Concrete, Inc. On May 29, 2024, the Iowa Department of Inspections, Appeals and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Chavez for a telephone hearing scheduled for June 12, 2024.

The administrative law judge held a telephone hearing on June 12, 2024. The administrative law judge heard Appeals 24A-UI-05068-DZ-T and 24A-UI-05069-DZ-T together and created one hearing record. Mr. Chavez participated in the hearing personally through a Spanish interpreter from CTS Language Link. The administrative law judge admitted Department's Exhibits 1-3, and Claimant's Exhibit A as evidence.

The administrative law judge concludes IWD overpay Mr. Chavez \$7,566.00 in REGULAR (state) UI benefits for 13 weeks between January 14, 2024 and April 13, 2024.

ISSUE:

Did IWD overpay Mr. Chavez \$7,566.00 in REGULAR (state) UI benefits for 13 weeks between January 14, 2024 and April 13, 2024?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds:

Mr. Chavez applied for REGULAR (state) UI benefits effective December 18, 2022. Mr. Chavez's benefit year ended on December 17, 2023. Mr. Chavez applied for REGULAR (state)

¹ Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

UI benefits again effective December 24, 2023. IWD set his weekly UI benefit amount at \$582.00 before taxes, if any, are withheld.

In relevant part, Mr. Chavez filed weekly UI claims for 13 weeks between January 14, 2024 and April 13, 2024 and reported \$0.00 in wages each week. IWD paid Mr. Chavez \$7,566.00 in REGULAR (state) UI benefits for these weeks (\$582.00 x 13).

After IWD had already sent him the money, IWD mailed Mr. Chavez an April 18, 2024 (reference 02) UI decision denying him REGULAR (state) UI benefits based the November 16, 2023 ending of his job with employer Midwest Concrete, Inc. Mr. Chavez appealed this decision. The Administrative Law Judge Decision in Appeal 24A-05068-UI-DZ-T affirmed the reference 02 UI decision because Mr. Chavez did not appeal this decision on time. This means Mr. Chavez is not eligible for REGULAR (state) UI benefits based on how his job ended with employer Midwest Concrete, Inc on November 16, 2023.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes IWD overpaid Mr. Chavez \$7,566.00 in REGULAR (state) UI for 13 weeks between January 14, 2024 and April 13, 2024.

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.

IWD sent Mr. Chavez \$7,566.00 in REGULAR (state) UI benefits for 13 weeks between January 14, 2024 and April 13, 2024. After IWD had already sent him the money, IWD found Mr. Chavez not eligible to receive UI benefits based on how her job ended with employer Midwest Concrete, Inc. on November 16, 2023. Mr. Chavez appealed this decision. The Administrative Law Judge Decision in Appeal 24A-UI-05068-DZ-T affirmed the decision denying Mr. Chavez UI benefits. Since Mr. Chavez is not eligible for UI benefits based on how his job ended with employer Midwest Concrete, Inc. on November 16, 2023, he is not eligible for the UI benefits IWD already sent him. IWD overpaid Mr. Chavez \$7,566.00 in REGULAR (state) UI for 13 weeks between January 14, 2024 and April 13, 2024.

DECISION:

The May 21, 2024 (reference 03) UI decision is AFFIRMED. IWD overpaid Mr. Chavez \$7,566.00 in REGULAR (state) UI for 13 weeks between January 14, 2024 and April 13, 2024. Mr. Chavez is required to repay these benefits back to IWD.



Daniel Zeno
Administrative Law Judge

June 14, 2024
Decision Dated and Mailed

scn

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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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 adquiera 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.