

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MANDY C RATTERREE
Claimant

APPEAL 21A-EUCU-00069-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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

Iowa Code § 96.3(7) – Overpayment of Extended Benefits
Iowa Code § 96.16(4) – Offenses and Misrepresentation
Iowa Admin. Code r. 871-25.1 – Misrepresentation & Fraud

STATEMENT OF THE CASE:

On March 8, 2021, the claimant, Mandy C. Ratterree, filed an appeal from the February 24, 2021 (reference 05) unemployment insurance decision that determined claimant was overpaid extended unemployment insurance benefits because she failed to accurately report earnings while concurrently filing weekly claims for unemployment insurance benefits. IWD also imposed a 15% administrative penalty due to misrepresentation.

The parties were properly notified of the hearing. A telephonic hearing was held at 2:00 p.m. on Thursday, June 24, 2021. Appeals 21A-EUCU-00067-LJ-T, 21A-EUCU-00068-LJ-T, 21A-EUCU-00069-LJ-T, 21A-EUCU-00070-LJ-T, 21A-EUCU-00071-LJ-T, and 21A-EUCU-00072-LJ-T were all heard together and created one record. The claimant, Mandy C. Ratterree, participated. Iowa Workforce Development participated through Seth Jones, Investigator II. Department's Exhibits 1-1 through 7-1 were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUES:

Did IWD correctly determine that the claimant was overpaid unemployment insurance 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, Mandy C. Ratterree, filed a claim for unemployment insurance benefits with an effective date of April 12, 2020.

When the claim was established effective April 12, 2020, the claimant was directed to read the Unemployment Insurance Handbook. 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 don't understand the information in the handbook. Claimant did not read the unemployment insurance handbook, and she does not recall agreeing to read it when she established her claim for benefits.

Each week the claimant would complete a weekly continued claim, she 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.

Before completing her weekly continued claim each week, the claimant had to check a box that stated she understood the warning message above and wished to proceed. (Department Exhibit 7-1) Claimant does not remember reading this information each week.

IWD conducted an audit and discovered that claimant received wages from employer Keosauqua Family Chiropractic, PC, during the time period of April 12, 2020, through October 31, 2020, but failed to report the wages. IWD contacted the employer on January 8, 2021, to verify the claimant's wages earned with employer, Keosauqua Family Chiropractic, PC. (Department Exhibit 2-3) The employer confirmed the claimant received wages due to the employer's PPP loan from April 12, 2020, through May 23, 2020. (Exhibit 2-4) The employer reported that claimant then returned to work, performed services, and received wages from May 24, 2020, through October 31, 2020. (Exhibits 2-4 and 2-5)

A review of the administrative file reflects the claimant did not report the same wages at the employer. Each week, from April 12, 2020, through October 31, 2020, the claimant reported she earned \$0.00 in wages, when she filed her weekly continued claim (Department Exhibit 2-6 through 2-10) , even though she was performing work.

As a result of the employer's verification of wages, Jones also contacted the claimant. The claimant was mailed a preliminary audit on January 27, 2021, which stated she may have been overpaid benefits in the amount of \$16,761.85, for failing to report her wages. (Department Exhibit 2-1) The letter also informed her that an overpayment may result in consequences including a 15% penalty. (Department Exhibit 2-1)

Claimant's weekly benefit amount was \$294.00. (Department Exhibit 2-8) Because the claimant did not accurately report her wages during this same period, an overpayment of regular unemployment insurance benefits of \$1103.00 was determined by IWD. (Department Exhibit 2-8) The agency established the overpayment based upon the following incorrect payments made to the claimant: (Department Exhibit 2-8)

WEEK ENDING	WAGES REPORTED	WAGES EARNED	BENEFITS PAID	BENEFITS ENTITLED	OVERPAYMENT
10/10/20	0.00	518.00	294.00	0.00	294.00
10/17/20	0.00	294.00	294.00	73.00	221.00
10/24/20	0.00	525.00	294.00	0.00	294.00
10/31/20	0.00	445.00	294.00	0.00	294.00
			SUBTOTAL:		1103.00
			15% Penalty		165.45
			NET TOTAL		1268.45

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. On four occasions relevant to the extended unemployment insurance benefits payments, the claimant responded when filing a weekly continued claim that she had not performed any work and that she did not earn any wages. The claimant does not dispute the overpayment amount but argued that a penalty should not be imposed because she was merely negligent and not trying to commit fraud.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes IWD did correctly establish and calculate the claimant's overpayment of benefits, and did correctly impose a 15% penalty due to the claimant's misrepresentation.

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.

The administrative law judge is persuaded the claimant knew or should have known she must report all wages earned each week that she sought to claim unemployment insurance benefits, and that failure to properly do so, could result in an overpayment, which she must repay. However, the claimant reported she did not perform work or earn wages for the period of four weeks, and misrepresented she was unemployed and receiving no income as she filed weekly continued claims for unemployment insurance benefits during the same time. (Department Exhibit 2-6) No evidence was presented that the wages reported by the employer to IWD were inaccurate or incorrect. Consequently, the claimant was able to collect both wages and unemployment insurance benefits each week. As a result, the claimant was overpaid benefits in the amount of \$1103.00, to which she was not entitled. The administrative law judge concludes therefore, that the overpayment was correctly calculated.

The next issue 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

Based on the evidence presented, the administrative law judge concludes the claimant knowingly omitted material information to IWD when she failed to correctly report her wages earned from Keosauqua Family Chiropractic, PC, when she filed for unemployment insurance benefits. On four separate occasions, the claimant reported she earned \$0.00 in wages but in fact received wages from the employer. This was blatantly false. The claimant's repeated and intentional concealment of wages led to the claimant receiving an overpayment of extended unemployment insurance benefits.

Therefore, the administrative law judge concludes the calculated overpayment was correct, and the claimant knowingly omitted material information to IWD when she failed to correctly report wages earned for the period of October 4, 2020, through October 31, 2020, and concurrently filed for unemployment insurance benefits. Accordingly, the administrative law judge concludes the overpayment was correctly calculated and the application of a 15% penalty due to misrepresentation was warranted.

DECISION:

The February 24, 2021 (reference 05) unemployment insurance decision is affirmed. The claimant was overpaid extended benefits. IWD correctly imposed the administrative penalty due to the claimant's misrepresentation.



Elizabeth A. Johnson
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July 7, 2021
Decision Dated and Mailed

lj/kmj