

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HEZOUWE BORONBOSSOU
Claimant

APPEAL 18A-UI-05078-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/25/16
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 18, 2018, (reference 06), unemployment insurance decision that found claimant overpaid unemployment insurance benefits. After due notice was issued, a telephone conference hearing was scheduled to be held on May 21, 2018. Claimant participated.

ISSUE:

Was claimant overpaid unemployment insurance benefits in the amount of \$580.00 for the five weeks ending September 9, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was temporarily laid off from his employment with IAC Iowa City LLC on December 18, 2015. He filed a claim for unemployment insurance benefits with an effective date of December 20, 2015. Claimant's Weekly Benefit Amount (WBA) for that claim year was \$331.00. Claimant received benefits for three weeks and then returned to work. He was later temporarily laid off for one week in April 2016 and again received benefits for that week.

On December 22, 2016, claimant was permanently laid off from IAC Iowa City LLC. He filed a claim for unemployment insurance benefits with an effective date of December 25, 2016. Claimant's Weekly Benefit Amount (WBA) for that claim year was \$447.00. Claimant exhausted his regular unemployment insurance benefits. Claimant was attending school at Kirkwood Community College. On March 15, 2017, claimant applied for Training Extension Benefits (TEB). A reference 04 decision was issued allowing TEB from June 11, 2017, through December 16, 2017. Claimant received TEB through the week ending September 9, 2017, in the amount of \$447.00 per week.

On July 12, 2017, the United States Department of Labor certified Petition 92400, stating, "All workers of International Automotive Components (IAC) . . . who became totally or partially separated from employment on or after November 5, 2015, through two years from the date of

certification ... are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

In early August 2017, Iowa Workforce Development made claimant aware of the certification decision. On August 5, 2017, claimant submitted his application for Trade Act Benefits. Claimant's application was eventually approved, and was given the Original Claim date of December 20, 2015, instead of December 25, 2016, and therefore a WBA of \$331.00 instead of \$447.00. Claimant verbally protested the WBA determination to Iowa Workforce Development, but was told there was nothing he could do about it. Claimant did not appeal the determination.

Claimant began receiving the lower Trade Readjustment Allowance (TRA) benefit of \$331.00 beginning the week ending September 16, 2017.

On April 18, 2018, Iowa Workforce Development issued an overpayment decision finding claimant overpaid benefits during the five weeks ending September 9, 2017, in the gross amount of \$580.00, because he was not eligible for the higher amount of TEB he was receiving due to his eligibility for TRA Benefits during those five weeks.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits.

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) 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 § 96.8, subsection 5. . . .

Iowa Code section 96.3(5)a-b provides:

a. Duration of benefits. The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment,

or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off" indicator is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

b. Training Extension Benefits.

(1) An individual who has been separated from a declining occupation or who has been involuntarily separated from employment as a result of a permanent reduction of operations at the last place of employment and who is in training with the approval of the director or in a job training program pursuant to the Workforce Investment Act of 1998, Pub. L. No. 105-220, at the time regular benefits are exhausted, may be eligible for training extension benefits.

(2) A declining occupation is one in which there is a lack of sufficient current demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity, and the lack of employment opportunities is expected to continue for an extended period of time, or the individual's occupation is one for which there is a seasonal variation in demand in the labor market and the individual has no other skill for which there is current demand.

(3) The training extension benefit amount shall be twenty-six times the individual's weekly benefit amount and the weekly benefit amount shall be equal to the individual's weekly benefit amount for the claim in which benefits were exhausted while in training.

(4) An individual who is receiving training extension benefits shall not be denied benefits due to application of section 96.4, subsection 3, or section 96.5, subsection 3. However, an employer's account shall not be charged with benefits so paid. Relief of charges under this paragraph "b" applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(5) In order for the individual to be eligible for training extension benefits, all of the following criteria must be met:

(a) The training must be for a high-demand occupation or high-technology occupation, including the fields of life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, and environmental technology. "High-demand occupation" means an occupation in a labor market area in which the department determines work opportunities are available and there is a lack of qualified applicants.

(b) The individual must file any unemployment insurance claim to which the individual becomes entitled under state or federal law, and must draw any unemployment insurance benefits on that claim until the claim has expired or has been exhausted, in order to maintain the individual's eligibility under this paragraph "b". Training extension

benefits end upon completion of the training even though a portion of the training extension benefit amount may remain.

(c) The individual must be enrolled and making satisfactory progress to complete the training.

Iowa Admin. Code r. 871-24.40 provides:

Training extension benefits.

(1) The purpose of training extension benefits is to provide the individual with continued eligibility for benefits so that the individual may pursue a training program for entry into a high-demand or high-technology occupation. Training extension benefits are available to an individual who was laid off or voluntarily quit with good cause attributable to the individual's employer from full-time employment in a declining occupation or is involuntarily separated from full-time employment as a result of a permanent reduction of operations.

(2) The weekly benefit amount shall be pursuant to the same terms and conditions as regular unemployment benefits and the benefits shall be for a maximum of 26 times the weekly benefit amount of the claim which resulted in eligibility. Both contributory and reimbursable employers shall be relieved of charges for training extension benefits.

(3) The course or courses must be full-time enrollment for a high-demand or high-technology occupation. The department will make available to serve as a guide a list of high-demand, high-technology, and declining occupations. The lists shall be available on the department's Web site and workforce centers.

a. High-technology occupations include life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, environmental technology, and technologically advanced green jobs. A high-technology occupation is one which requires a high degree of training in the sciences, engineering, or other advanced learning area and has work opportunities available in the labor market area or the state of Iowa.

b. A high-demand occupation means an occupation in a labor market area or the state of Iowa as a whole in which the department determines that work opportunities are available.

c. A declining occupation has a lack of sufficient current demand in the individual's labor market area or the state of Iowa for the occupational skills possessed by the individual, and the lack of employment opportunities is expected to continue for an extended period of time.

d. A declining occupation includes an occupation for which there is a seasonal variation in demand in the labor market or the state of Iowa, and the individual has no other skill for which there is a current demand.

e. A declining or high-demand occupation will be determined by using Iowa labor market information for each region in the state.

(4) The application for training benefits must be received within 30 days after state or federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program in order to continue to be eligible for training extension benefits.

(5) Training benefits shall cease to be available if the training is completed; the individual quits the training course; the individual exhausts the training extension maximum benefit amount; or the individual fails to make satisfactory progress; and benefits shall cease no later than the end of the benefit year in which the individual became eligible for the benefits. Individuals must file and receive benefits under any federal or state unemployment insurance benefit program until the benefits have been exhausted, in order to maintain eligibility for training extension benefits.

This rule is intended to implement 2009 Iowa Code Supplement section 96.3(5).

In this case, claimant was no longer eligible for TEB when he became eligible for TRA Benefits effective August 5, 2017. Claimant is required to exhaust available federal benefits before receiving TEB. Claimant received a weekly TEB benefit of \$447.00 for five weeks thereafter. Iowa Workforce Development determined claimant's weekly TRA benefit was \$331.00, and claimant did not appeal that determination. Therefore, Iowa Workforce Development correctly found claimant was overpaid benefits in the amount of \$580.00 during the five weeks ending September 9, 2017.

DECISION:

The April 18, 2018, (reference 06), unemployment insurance decision is affirmed. The claimant was overpaid \$580.00 in unemployment insurance benefits.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

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