

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LASHONDA D VIVIAN

Claimant

APPEAL 19A-UI-08840-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 09/01/19

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On November 8, 2019, LaShonda D. Vivians (claimant) appealed an unemployment insurance decision dated November 1, 2019, reference 02, that concluded she was overpaid \$448.00 in unemployment insurance benefits. After due notice was issued, a hearing was held on December 4, 2019 and consolidated with the hearing for appeal 19A-UI-08839-SC-T. The claimant participated personally. No exhibits were admitted into the record. The administrative law judge took official notice of the administrative record, specifically the fact-finding documents.

ISSUE:

Has the claimant been overpaid benefits?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of September 1, 2019 and claimed three dependents. The claimant's weekly benefit amount was \$545.00. The claimant filed for and received full unemployment insurance benefits for the seven weeks between September 1 and October 19, 2019.

Orlando Vivians (Vivians), the claimant's husband, filed a claim for benefits effective December 16, 2018 as he is temporarily laid off throughout the year. He claimed the couple's three children as dependents on his claim for benefits. On October 18, Vivians contacted Iowa Workforce Development (IWD) to ask if he could add the claimant as a dependent on his claim. He also disclosed that he and the claimant were both claiming their children as dependents on their claims.

IWD determined the dependents should be removed from the claimant's claim and her weekly and maximum benefit amounts were redetermined. The decision finding the claimant is not entitled to claim the children on her claim has been affirmed in a decision of the administrative law judge in appeal 19A-UI-08839-SC-T. The claimant's new weekly benefit amount with zero dependents on her claim is \$481.00, or \$64 less than her prior weekly benefit amount for a total of \$448.00.

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.

The claimant incorrectly claimed three dependents on her unemployment insurance claim. As a result of the error, she received benefits to which she was not entitled. The claimant is overpaid \$448.00 in unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated November 1, 2019, reference 02, is affirmed. The claimant was overpaid \$448.00 in unemployment insurance benefits, which must be repaid.



Stephanie R. Callahan
Administrative Law Judge

December 6, 2019
Decision Dated and Mailed

src/scn