

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PEGGY L DERUDDER**  
Claimant

**LOGO PRO LLC**  
Employer

**APPEAL 22A-UI-04190-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.5(5) – Wages

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 2, 2022, (reference 01) unemployment insurance decision that concluded she was overpaid \$426.00 in regular unemployment insurance benefits. After proper notice, a telephone hearing was conducted on March 17, 2022. Claimant participated. Employer participated through Linda Mosher. Official notice of the administrative records was taken. Claimant Exhibits A-C were admitted.

**ISSUES:**

Is claimant overpaid benefits?  
Is the claimant totally, partially or temporarily unemployed?  
Did the claimant correctly report wages earned?  
Is the claimant eligible for benefits based on the wages earned?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established her claim for unemployment insurance benefits with an effective date of March 15, 2020. Her weekly benefit amount as \$500.00.

When the claim was established, 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.

With respect to "Reporting Earnings," the handbook states:

Gross earnings/wages (before tax and payroll deductions) must be reported on the weekly claim during the week the wages are earned, not when the wages are paid. Earnings must be reported even if the payment has not been received yet. To calculate the amount to report, the individual should multiply the number of hours worked by the hourly wage. Individuals should report the full gross amount of earnings and IWD will

calculate any deductions. If an individual earns \$15.00 over their WBA, they will not receive a benefit payment.

Claimant began employment in 2016. Claimant was employed as a full-time graphic designer, earning \$19.50 per hour. Prior to COVID-19, claimant worked at least forty hours per week.

Dates	Claimant Reported	Employer Reported	Benefits entitled	Benefits paid	Overpayment
04/11/20	195.00	214.00	411.00	430.00	19.00
04/18/20	49.00	76.00	500.00	500.00	0.00
04/25/20	297.00	505.00	120.00	328.0	208.00
05/02/20	304.00	263.00	362.00	321.00	150.00
05/09/20	202.00	242.00	383.00	423.00	40.00

Claimant received two commission payments for sales during this period. She was paid \$52.40 on April 17, 2020 for a sale made on April 7, 2020. Claimant also was paid \$184.56 on April 24, 2020 for a sale made on April 22, 2020.

IWD conducted an audit of the claim, and contacted the employer to verify the claimant's wages earned with employer. A review of the administrative file reflects the claimant did not report the same wages at the employer.

#### **REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code section 96.3(3) provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.1A, subsection 37, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. *This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c".* The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of

section 96.5, subsection 3, are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

(emphasis added).

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work, or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

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.

In this case, claimant was partially unemployed for the period of April 5, 2020 through May 9, 2020. Claimant's earned wages did not exceed the earnings limitation making her eligible for unemployment insurance benefits. Claimant was therefore eligible for partial unemployment insurance benefits each week.

Due to minor discrepancies and employer's work week for payroll being different from IWD's, the record supports claimant was overpaid \$426.00 total in regular unemployment insurance benefits for the period between April 5, 2020 and May 9, 2020. This overpayment is subject to recovery.

**DECISION:**

The February 2, 2022, (reference 01) initial decision is affirmed. Claimant is overpaid \$426.00 in regular benefits. These benefits are subject to recovery.



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April 8, 2022  
Decision Dated and Mailed

jlb/mh