

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COLE CARRARA
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-01135-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/20
Claimant: Appellant (1)

Iowa Code § 96.5(13) – Disqualification due to Outstanding Fraud Overpayment
Iowa Code § 96.16(4) – Offenses and Misrepresentation

STATEMENT OF THE CASE:

The claimant/appellant, Cole Carrara, filed an appeal from the December 7, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was ineligible for unemployment insurance benefits due to an outstanding fraud overpayment balance.

The parties were properly notified of the hearing. A telephone hearing was held on February 19, 2021. The claimant participated personally. IWD Investigation and Recovery Unit elected to participate by writing only and IWD exhibits 1-3 were admitted into evidence.

The administrative law judge held the record open after the hearing to allow claimant to submit an additional document. It was received and admitted as Claimant Exhibit A.

The administrative law judge took official notice of the claimant's unemployment insurance benefits records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant ineligible for benefits due to an outstanding fraud overpayment balance?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits with an effective date of November 16, 2014. During that claim year, an investigatory audit was conducted regarding the claimant's failure to report all wages while concurrently filed weekly continued claims for benefits. Consequently, a decision was issued on August 19, 2015 which found that the claimant was overpaid benefits of \$1,447.85, and added a 15% penalty due to fraud. (Department Exhibit 2)

The claimant then established a claim with an effective date of November 29, 2020. Effective July 1, 2018, a claimant with an overpayment by reason of misrepresentation is disqualified to receive unemployment insurance benefits until the overpayment interest and associated fees and penalties are paid in full. Iowa Code section 96.5(13). To date, the claimant has failed to pay the outstanding overpayment amount owed, including interest, penalties, and lien fees. The current outstanding balance owed is \$1,447.85 (Department Exhibit 3).

Claimant asserted he had paid the overpayment and presented a document reflecting payments or deductions made towards an overpayment (Claimant Exhibit A). The document references "1040" which is a number associated with federal tax forms and the IRS. This is not the same as Iowa Workforce Development. The document does not reflect that deductions or garnishments made in this document were towards the overpayment of unemployment insurance benefits with the State of Iowa, but may be for some other overpayment (such as federal taxes) that claimant has with another government agency. Claimant may wish to contact his local IRS office for additional information: <https://www.irs.gov/help/contact-your-local-irs-office>

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is ineligible for benefits due to an outstanding fraud overpayment. Benefits are denied at this time, and until the balance owed, (including interest, penalties, and lien fees) is paid.

Iowa Code section 96.16(4)(a) provides:

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.

Iowa Workforce Development established an overpayment and imposed a penalty due to misrepresentation/fraud (Department Exhibit 2). The decision is final at this time. Therefore, the administrative law judge concludes the claimant has an established overpayment derived from fraud/misrepresentation.

Iowa Code section 96.5(13) provides:

Overpayment resulting in disqualification. If the department finds that an individual has received benefits by reason of misrepresentation pursuant to section 96.16, such individual shall be disqualified for benefits until the balance of the benefits received by the individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

The administrative law judge recognizes the claimant has filed his current claim effective November 29, 2020, due to hardship related to the COVID-19 pandemic. Based on the evidence presented, the administrative law judge concludes the claimant currently owes a balance of \$1,447.85 (Department Exhibit 3) due to a decision issued on August 19, 2015 (Department Exhibit 2) which found that the claimant was overpaid benefits and engaged in misrepresentation pursuant to Iowa Code § 96.16(4). The claimant owes any additional interest, penalties and lien fees. Because this unpaid fraud overpayment balance remains unpaid, the claimant is not eligible for benefits at this time.

DECISION:

The December 7, 2020 (reference 02) unemployment insurance decision is affirmed. The claimant is ineligible for benefits at this time due to an unpaid fraud overpayment balance. Benefits are withheld until the claimant has paid the unpaid fraud overpayment balance, plus penalties, interest, and lien fees, and provided claimant is otherwise eligible.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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Fax 515-478-3528

March 1, 2021
Decision Dated and Mailed

jlb/lj

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:

www.iowaworkforcedevelopment.gov/pua-information

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>