

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

STACEY GUTIERREZ
Claimant

US FOODS
Employer

APPEAL NO. 22A-UI-06388-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits
Iowa Code § 96.3(7) – LWAP Benefits

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated February 28, 2022, reference 04, that concluded claimant was overpaid LWAP unemployment insurance as a result of a disqualification decision. A hearing was scheduled and held on May 9, 2022 pursuant to due notice. Claimant did participate.

ISSUES:

Whether claimant is overpaid unemployment insurance benefits?

Whether claimant has been overpaid LWAP benefits?

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a ruling claimant was improperly paid state unemployment benefits. Claimant was deemed to have been overpaid \$300.00 for the one week ending August 29, 2020. Claimant admitted to receiving these payments.

Claimant was found to be overpaid regular unemployment benefits after the date of March 22, 2020 in case 22A-UI-06385-B2-T.

Claimant's receipt of LWAP benefits in this matter occurred as a supplement to claimant's receiving regular benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

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) (a) 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 section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

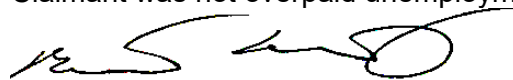
(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The administrative law judge concludes that claimant was not overpaid LWAP benefits in the amount of \$300.00 for the one week ending August 29, 2020, pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision has now been reversed.

DECISION:

The decision of the representative dated February 28, 2022, reference 04, is reversed. Claimant was not overpaid unemployment insurance benefits in the amount of \$300.00.



Blair A. Bennett
Administrative Law Judge

May 26, 2022
Decision Dated and Mailed

bab/scn

NOTE TO CLAIMANT:

- This decision determines you have been overpaid LWAP 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.
- You may also request a waiver of this overpayment. The written request must include the following information:
 1. Claimant name & address.
 2. Decision number/date of decision.
 3. Dollar amount of overpayment requested for waiver.
 4. Relevant facts that you feel would justify a waiver.
- The request should be sent to:

Iowa Workforce Development
Overpayment waiver request
1000 East Grand Avenue
Des Moines, IA 50319
- This Information can also be found on the Iowa Workforce Development website at: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.