

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**KELLI L BARTON**  
Claimant

**APPEAL NO. 22A-UI-06414-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/22/20**  
**Claimant: Appellant (3)**

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Iowa Code § 96.3(7) - Recovery of Benefit Overpayment  
Iowa Code § 96.5(5) – Causes for Disqualification/Other Compensation

**STATEMENT OF THE CASE:**

On March 14, 2022, the claimant Kelli L. Barton appealed the March 2, 2022, (reference 01) decision that concluded the claimant was overpaid regular unemployment insurance benefits in the amount of \$301.00 for the one-week period ending April 4, 2020, due to failing to report wages. The parties were properly notified of the hearing. A telephonic hearing was held at 1:00 p.m. on Monday, April 25, 2022. Appeal numbers 21A-UI-06414-LJ-T and 21A-UI-06415-LJ-T were heard together and created one record. The claimant, Kelli L. Barton, participated. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the claimant overpaid regular unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Waukee Family Dentistry in 2004. She is currently employed with the company as a full-time dental hygienist. Claimant was temporarily laid off due to the COVID-19 pandemic in the spring of 2020.

Claimant was on vacation at the time the employer had to close due to the rapidly-spreading pandemic. The employer closed its doors on March 18, 2020, and it remained closed for six or eight weeks. Claimant was paid through March 31, 2020. She earned \$40.00 per hour with the employer at the time. This would make her full-time weekly rate \$1,600.00.

Claimant filed for and received regular unemployment insurance benefits in the gross amount of \$481.00 for one-week period ending March 28, 2020. She reported working no hours and receiving no wages that week. Claimant then filed for and received regular unemployment insurance benefits in the gross amount of \$301.00 for the one-week period ending April 4, 2020, after reporting that she earned \$300.00 in gross wages that week.

## REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

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", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c".

Iowa Code § 96.1A(37) provides:

"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.

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.

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

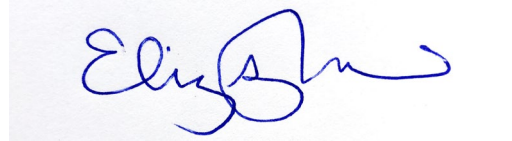
individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

Here, claimant credibly testified that she received wages both the week ending March 28 and the week ending April 4. During both of these weeks, the wages she received amounted to more than her weekly benefit amount (\$481.00) plus fifteen dollars. Therefore, claimant was not entitled to unemployment insurance benefits for either the week ending March 28 or the week ending April 4.

Claimant received \$481.00 in unemployment insurance benefits for the week ending March 28, 2020; and she received \$301.00 in unemployment insurance benefits for the week ending April 4, 2020. These benefits were received in error. The administrative law judge concludes that the claimant has been overpaid regular unemployment insurance benefits in the total amount of \$782.00. That amount must be repaid to the agency.

**DECISION:**

The March 2, 2022 (reference 01) decision is modified in favor of Iowa Workforce Development. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$782.00, and those benefits must be repaid to the agency.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

April 28, 2022  
Decision Dated and Mailed

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