

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSICA A BUSBY
Claimant

APPEAL NO. 21A-UI-25642-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 10/25/20
Claimant: Appellant (1)

Iowa Code Section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

The claimant, Jessica Busby, filed a timely appeal from the November 15, 2021, reference 02, decision that held the claimant was overpaid \$1,292.00 in regular benefits for three weeks between October 25, 2020 and November 14, 2020, due to the January 27, 2021 decision that denied benefits for that period based on an able and available determination. After due notice was issued, a hearing was held on January 19, 2022. The claimant participated. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-25640-JT-T. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: the reference 01 and 02 decisions, KCCO, DBRO and the deputy's notes regarding attempted contact and correspondence with claimant in January 2021 in connection with the attempted fact-finding interview.

ISSUE:

Whether the claimant was overpaid \$1,292.00 in regular benefits for three weeks between October 25, 2020 and November 14, 2020, due to the January 27, 2021 decision that denied benefits for that period based on an able and available determination.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective October 25, 2020. Iowa Workforce Development set the weekly benefit amount at \$559.00. The claimant made weekly claims for each of the three weeks between October 25, 2020 and November 14, 2020 and received \$1,292.00 in regular state benefits for that three-week period.

On January 27, 2021, an Iowa Workforce Development Benefits Bureau deputy entered a reference 01 decision that denied benefits effective October 25, 2020, based on the deputy's conclusion that the claimant requested and was approved for a leave of absence, was voluntarily unemployed, and was not available for work. The reference 01 has been affirmed in Appeal Number 21A-UI-25640-JT-T, due to an untimely appeal from the reference 01 decision. The reference 01 decision remains in effect for the three benefit weeks in question.

REASONING AND CONCLUSIONS OF LAW:

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.

Because the reference 01 decision denied benefits for the period beginning October 25, 2020, and because the reference 01 decision remains in effect for the three benefit weeks between October 25, 2020 and November 14, 2020, the \$1,292.00 in regular benefits the claimant received for those three weeks are an overpayment of benefits. The claimant must repay the overpaid benefits.

DECISION:

The November 15, 2021, reference 02, decision is affirmed. The claimant was overpaid \$1,292.00 in regular benefits for three weeks between October 25, 2020 and November 14, 2020, due to the January 27, 2021 decision that denied benefits for that period based on an able and available determination.



James E. Timberland
Administrative Law Judge

February 10, 2022
Decision Dated and Mailed

jet/kmj