

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**DANIEL J KELLY**  
Claimant

**APPEAL NO. 21R-UI-21950-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT**

**OC: 04/26/20**  
**Claimant: Appellant (1)**

Iowa Code Section 96.3(7) – Overpayment of Benefits

**STATEMENT OF THE CASE:**

The claimant, Daniel Kelly, filed a timely appeal from the April 5, 2021, reference 02, decision that held he was overpaid \$510.00 in regular benefits for three weeks between April 26, 2020 and May 23, 2020, based on an August 7, 2020 decision that disqualified him for benefits in connection with an availability determination. After due notice was issued, a hearing was held on November 30, 2021. The claimant participated in the hearing. The hearing in this matter was consolidated with the hearing in Appeal Number 21R-UI-21952-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, the reference 01, 02, and 03 decisions, the administrative law judge decision in Appeal Number 20A-UI-10127-JC-T and the Employment Appeal Board decision in Hearing Number 20B-UI-10127.

**ISSUE:**

Whether the claimant was overpaid \$510.00 in regular benefits for three weeks between April 26, 2020 and May 23, 2020, based on an August 7, 2020 decision that disqualified him for benefits in connection with an availability 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 April 26, 2020. Iowa Workforce Development set the weekly benefits at \$170.00. The claimant received \$170.00 in regular benefits for the week that ended May 2, 2020, the week that ended May 9, 2020, and the week that ended, May 23, 2020. The three weeks of regular benefits totaled \$510.00. The claimant also received \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) for each of same three weeks. The FPUC benefits totaled \$1,800.00.

On August 7, 2020, the Iowa Workforce Development Benefits Bureau issued a reference 01 decision that denied benefits effective April 26, 2020, based on the deputy's conclusion that the claimant was not partially unemployed from his employment with Staff Management Solutions, L.L.C.

The August 7, 2020, reference 01, decision prompted the overpayment decision from which the claimant appeals in the present matter.

The claimant filed an appeal from the reference 01 decision.

On October 9, 2020, an administrative law judge entered a decision in Appeal Number 20A-UI-10127-JC-T that affirmed the reference 01 decision, based on the administrative law judge's determination that the claimant's appeal was untimely. The claimant appealed the administrative law judge's decision.

On November 12, 2020, the Employment Appeal Board issued a decision in Hearing Number 20B-UI-10127 that affirmed the administrative law judge decision in Appeal Number 20A-UI-10127-JC-T. The claimant did not file a petition for judicial review to challenge the Employment Appeal Board's decision and the decision became final. The effect of the Board's decision was to leave the reference 01 decision in place.

#### **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 August 7, 2020, reference 01, decision denied benefits for the period beginning April 26, 2020, and because the reference 01 decision has been affirmed on appeal and remains in effect, the \$510.00 in regular benefits that the claimant received for three weeks between April 26, 2020 and May 23, 2020 is an overpayment of benefits that the claimant must repay.

**DECISION:**

The April 5, 2021, reference 02, decision is affirmed. The claimant was overpaid \$510.00 in regular benefits for three weeks between April 26, 2020 and May 23, 2020, based on an August 7, 2020 decision that disqualified him for benefits in connection with an availability determination. The claimant must repay the overpaid regular benefits.



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James E. Timberland  
Administrative Law Judge

January 5, 2022  
Decision Dated and Mailed

jet/mh

*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. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed for reasons related to COVID-19, may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.