

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JOSHUA P BREUER**  
Claimant

**APPEAL NO. 21A-UI-02843-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 04/26/20**  
**Claimant: Appellant (2)**

Iowa Code Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November `18, 2020, reference 03, decision that held he was overpaid \$1,090.00 for two weeks between May 10, 2020 and May 23, 2020 due to a purported November 17, 2020 decision that denied benefits based on an availability determination. The claimant appeared at the time of the hearing. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-02842-JT-T. Upon review of the Agency’s administrative records, the administrative law judge concluded that a decision in favor of the claimant could be entered without need for a hearing.

**ISSUE:**

Whether the claimant was overpaid \$1,090.00 for two weeks between May 10, 2020 and May 23, 2020 due to a purported November 17, 2020 decision that denied benefits based on an availability determination.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant establishes an original claim for benefits that was effective April 26, 2020. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$545.00. The claimant made weekly claims for each week between April 26, 2020 and June 20, 2020. The claimant received \$545.00 in regular weekly benefits for the week that ended May 16, 2020 and for the week that ended May 23, 2020. During the other claim weeks, the claimant was working at his full-time employment and was receiving wages that ranged from \$1,100.00 to \$1,500.00.

On October 5, 2020, Iowa Workforce Development Benefits Bureau issued a reference 01 decision that denied benefits for the two-week period of *April 26, 2020 through May 9, 2020*, based on the Agency determination that the claimant was employed during those two weeks and, therefore, did not meet the unemployment insurance “availability” requirement. The reference 01 decision remains in effect. See Appeal Number 21A-UI-02842-JT-T. However, as noted above, the claimant did not receive benefits for the two-week period of *April 26, 2020 through May 9, 2020*.

On October 5, 2020, Iowa Workforce Development Benefits Bureau also issued a reference 02 decision that *allowed* benefits for the period beginning May 10, 2020, provided the claimant was otherwise eligible, based on the Agency determination that the claimant was able to work, available for work, but on a short-term layoff. The October 5, 2020, reference 02, decision was not appealed and became final.

The November `18, 2020, reference 03, overpayment decision from which the claimant appeals in this matter held the claimant was overpaid \$1,090.00 for two weeks between May 10, 2020 and May 23, 2020 due to a purported November 17, 2020 decision that allegedly denied benefits based on an availability determination. However, there was not November 17, 2020 decision that denied benefits other than reference 03 overpayment decision itself. November 17, 2020 would have been date the overpayment decision was entered into the Agency's computer system so that it could be mailed on November 18, 2020. The only decision that had denied benefits was the reference 01 decision that denied benefits for the two-week period that preceded the between May 10, 2020 through May 23, 2020 period referenced in the overpayment decision. The reference 02 decision had actually allowed benefits for the period beginning May 10, 2020 provided the claimant was otherwise eligible. In short, the November `18, 2020, reference 03, overpayment decision was entered in error and includes erroneous information.

#### **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.

The claimant was *not* overpaid \$1,090.00 in benefits for the two-week period of May 10, 2020 through May 23, 2020. Through the reference 02 decision, the claimant was deemed eligible for benefits for that two-week period of May 10, 2020 through May 23, 2020, provided he was otherwise eligible.

**DECISION:**

The November 18, 2020, reference 03, decision is reversed. The claimant was *not* overpaid \$1,090.00 in benefits for the two-week period of May 10, 2020 through May 23, 2020.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

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James E. Timberland  
Administrative Law Judge

June 29, 2021  
Decision Dated and Mailed

jet/kmj