

IOWA DEPARTMENT OF INSPECTIONS AND  
APPEALS  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**DEANNA PEARSON**  
**7625 HICKMAN RD. APT. 211**  
**DES MOINES, IA 50309**

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATIONS AND RECOVERY**  
**IRMA LEWIS**  
**150 DES MOINES STREET**  
**DES MOINES IA 50309**

JOE WALSH, IWD

**Appeal Number: 13IWDUI022**  
**OC: 11/25/12**  
**Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the ***Employment Appeal Board, 4<sup>TH</sup> Floor Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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April 24, 2013

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(Decision Dated & Mailed)

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**STATEMENT OF THE CASE**

Deanna Pearson filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 2, 2013 (reference 01). In this decision, the Department imposed an administrative penalty that disqualified Pearson from receiving unemployment insurance benefits from December 23, 2012 through the end of her benefit year on November 23, 2013.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on January 15, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on January 24, 2013. On March 21, 2013, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Investigator Irma Lewis represented the Department and presented

testimony. Appellant Deanna Pearson appeared and presented testimony. Exhibits A through L were submitted by the Department and admitted into the record as evidence.

### **ISSUE**

Whether the Department correctly imposed an administrative penalty on the basis of false statements made by the Appellant.

### **FINDINGS OF FACT**

Deanna Pearson filed a claim for unemployment insurance benefits with an effective date of November 25, 2012. At some point after Pearson filed this claim, the Department determined that she had made false statements regarding her employment and earnings in order to receive unemployment insurance benefits from December 13, 2009 through October 16, 2010. On the basis of this determination, the Department issued a decision imposing an administrative penalty that disqualified Pearson from receiving benefits from December 23, 2012 through November 23, 2013, the end of her current benefit year. (Exh. L).

During December, 2009, part of January through March, 2010, and then from the week ending April 3, 2010 through the week ending July 3, 2010, Pearson made claims for unemployment insurance benefits. During each of approximately 23 weeks, Pearson's employer, Adecco USA Inc., reported that she earned wages ranging from \$88 to \$460. During each of the approximately 23 weeks that the employer reported she earned wages, Pearson either reported no wages or significantly underreported her wages. Although there were at least 16 weeks when Pearson earned over \$400, she never reported earning over \$250 in any single week. There were three weeks when Pearson earned wages that she reported not having worked at all. During that time period, Pearson was overpaid a total of \$4,895.82 in unemployment insurance benefits. (Exh. H).

When the Department initially investigated the potential overpayment, Pearson was given an opportunity for an interview to discuss the discrepancy in wages reported by her employer. Pearson failed to respond. The Department issued a decision dated December 3, 2010 determining that Pearson had been overpaid \$4,895.82 for 23 weeks of unemployment insurance benefits as a result of misrepresentation. Pearson did not appeal that decision. (Exh. D, F; Lewis testimony).

In addition, Pearson was charged criminally as a result of the overpayment. No documentation was submitted regarding the charges, but Pearson was apparently charged with fraudulent practices, second degree, and pleaded guilty to a lesser charge in exchange for a deferred judgment. (Lewis; Pearson testimony).

When investigator Irma Lewis received notice that Pearson had filed another claim effective November 25, 2012, she sent a letter to Pearson on December 11, 2012. In that letter, Lewis referenced the previous overpayment and asked Pearson to contact her regarding the potential imposition of an administrative penalty. Pearson responded with a letter to Lewis indicating that she was claiming net pay, rather than gross pay,

earned with Adecco. Pearson indicated in the letter that she did not receive the “booklet” and “just assumed you claim for money that you receive.” (Exh. B, C; Lewis testimony).

At hearing, Pearson testified that she never received notification in 2009 of the overpayment. Pearson testified she has moved off and on over the last three to four years. (Pearson testimony).

### **REASONING AND CONCLUSIONS OF LAW**

The Department is authorized to impose an administrative penalty when it determines that an individual has, within the thirty-six preceding calendar months, willfully and knowingly made a false statement or misrepresentation or willfully and knowingly failed to disclose a material fact with the intent to obtain unemployment benefits to which the individual is not entitled.<sup>1</sup> The imposition of an administrative penalty results in the forfeiting of all unemployment benefits for a period of time to be determined by the Department; the period, however, cannot exceed the remainder of the individual’s benefit year.<sup>2</sup>

The Department’s investigator considers the facts and nature of the offense in determining the degree and severity of the penalty. The penalty range for falsification is from three weeks through the remainder of the benefit year. The investigator has broad discretion to determine the actual penalty to be imposed within the range.<sup>3</sup>

The evidence in this case establishes that Pearson did not report and significantly underreported wages for 23 weeks during 2009 and 2010. Upon review of the wages that Pearson actually earned versus the wages she reported, I do not find the assertion she made in her letter to Lewis that she was reporting her net pay credible. During many of the weeks in question, Pearson reported less than half of her gross wages. At hearing, Pearson presented no testimony whatsoever regarding how she reported her earnings; her only testimony related to her argument that she had not received notification from the Department of the overpayment.

I conclude based on the available evidence that Pearson willfully and knowingly falsely represented her employment status with the intent to obtain unemployment insurance benefits to which she was not entitled. The Department’s decision to impose an administrative penalty was correct and the length of the administrative penalty imposed in this case does not exceed the time period allowed in the Department’s regulations.

### **DECISION**

Iowa Workforce Development’s decision dated January 2, 2013 (reference 01) is **AFFIRMED**. The Department correctly imposed the administrative penalty. The Department shall take any action necessary to implement this decision.

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<sup>1</sup> Iowa Code § 96.5(8) (2013).

<sup>2</sup> *Id.*

<sup>3</sup> 871 Iowa Administrative Code (IAC) 25.9(2).