

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL R KERR
Claimant

APPEAL NO. 21A-UI-25200-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/03/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment – Lost Wages Assistance Program

STATEMENT OF THE CASE:

On November 12, 2021, the claimant Michael R. Kerr appealed the November 2, 2021, (reference 04) decision that concluded the claimant was overpaid Lost Wages Assistance Program (“LWAP”) benefits in the amount of \$1,800.00 for the six-week period ending September 5, 2020. The parties were properly notified of the hearing. A telephonic hearing was held at 11:00 a.m. on Tuesday, January 11, 2022. Appeal numbers 21A-UI-25197-LJ-T, 21A-UI-25198-LJ-T, 21A-UI-25199-LJ-T, and 21A-UI-25200-LJ-T were heard together and created one record. The claimant, Michael Kerr, participated. The employer, Baker Group, did not call in and participate in the hearing. Department Exhibits D-1 and D-2 were received and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant overpaid LWAP benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On January 28, 2021, Iowa Workforce Development (IWD) issued a decision (reference 01) that disqualified claimant from receiving regular unemployment insurance benefits. That decision has been reversed. See 21A-UI-25197-LJ-T.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has not been overpaid LWAP benefits for the period in question.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

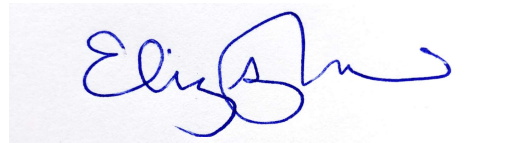
a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by 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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The decision that denied claimant regular unemployment insurance benefits has been reversed. Therefore, the claimant has not been overpaid LWAP benefits. The administrative law judge concludes that the claimant is eligible for the LWAP benefits he received.

DECISION:

The November 2, 2021 (reference 04) decision is reversed. Claimant has not been overpaid LWAP benefits.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

February 3, 2022
Decision Dated and Mailed

lj/kmj