

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BERKELEY D VARNER**  
Claimant

**APPEAL 21A-UI-11854-SC-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 05/24/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.3(7) – Recovery of Overpayment – Lost Wage Assistance Payments (LWAP)

**STATEMENT OF THE CASE:**

On April 15, 2021, Berkeley D. Varner (claimant) appealed an unemployment insurance decision dated April 7, 2021, reference 04, which concluded he was overpaid \$1,800.00 in Lost Wage Assistance Payments (LWAP). After due notice was issued, a telephone hearing was held on July 16, 2021, and consolidated with the hearings for appeals 21A-UI-11851-SC-T and 21A-UI-11852-SC-T. The claimant participated personally. No exhibits were offered into the record. The administrative law judge took official notice of the administrative record, specifically the claimant's claim history and the agency's prior decisions related to the overpayment.

**ISSUE:**

Has the claimant been overpaid LWAP?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 24, 2020. The claimant filed for and received a total of \$1,800.00 in regular unemployment insurance benefits for the six weeks ending September 5. The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge (ALJ) in appeal 20A-UI-12371-DG-T. The claimant appealed that decision to the Employment Appeal Board (EAB), who affirmed the ALJ's decision in appeal 21B-UI-12371. The claimant did not file a petition in District Court; therefore, the EAB decision has become final agency action.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was overpaid unemployment insurance benefits, which must be repaid.

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.

Since the decision disqualifying the claimant was affirmed and it has become final agency action, the claimant was overpaid \$1,800.00 in LWAP. The benefits must be recovered, even when the claimant acts in good faith and is not otherwise at fault.

**DECISION:**

The unemployment insurance decision dated April 7, 2021, reference 04, is affirmed. The claimant was overpaid \$1,800.00 in LWAP, which must be repaid.



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Stephanie R. Callahan  
Administrative Law Judge

July 26, 2021  
Decision Dated and Mailed

src/lj