

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

**Appeal Number: 12IWDUI083**

**OC: 12/04/11**

**Claimant: Appellant (3)**

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**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.

**JEFFERY D. WILLIAMS**  
**609 – 17<sup>TH</sup> STREET**  
**WEST DES MOINES, IA 50265-4814**

STATE CLEARLY

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

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.

JOE WALSH, IWD

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(Administrative Law Judge)

March 27, 2012

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(Decision Dated & Mailed)

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## STATEMENT OF THE CASE

Jeffrey D. Williams filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 23, 2012, reference 01. In this decision, the Department imposed an administrative penalty on Mr. Williams, which disqualified him from receiving unemployment insurance benefits from December 25, 2011 through April 28, 2012. The decision stated that the administrative penalty was imposed on the basis of Mr. Williams having made false statements concerning his employment and earnings in order to receive unemployment insurance benefits from April 11, 2010 through May 22, 2010.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on February 20, 2012 to schedule a contested case hearing. A Notice of In-Person Hearing was mailed to all parties on February 27, 2012. On that date a hearing was held before Administrative Law Judge John M. Priester. Investigator

Irma Lewis represented the Department and presented testimony. The administrative file was admitted into the record as evidence. The Appellant appeared and testified.

### **ISSUE**

Whether the Department correctly imposed an administrative penalty.

### **FINDINGS OF FACT**

Jeffrey Williams filed a claim for unemployment benefits with an effective date of February 28, 2010. Mr. Williams made claims for and received unemployment benefits from April 11, 2010 and May 22, 2010. On December 23, 2010, the Department issued a decision finding that Mr. Williams was overpaid by \$2,298 in unemployment insurance benefits for these weeks. The Department determined that the overpayment was a result of misrepresentation.<sup>1</sup> Mr. Williams did not appeal the overpayment decision and he repaid the money to the state that he improperly received.

Mr. Williams most recently filed a claim for unemployment insurance benefits effective December 4, 2011. On January 11, 2012, the Department issued a decision imposing an administrative penalty from December 25, 2011 until April 28, 2012. The decision states that it is based upon false statements made in order to receive unemployment insurance benefits from April 22, 2010 to May 22, 2010.

In order to determine the length of the penalty, the Department's investigator reviewed the severity of the offense. In this case, Mr. Williams reported that he did not work during 6 weeks that he was working and earning wages. The Department could have imposed an administrative penalty from 10 to 24 weeks based upon the violations. The Investigator determined that an 18 week penalty would be appropriate.

Mr. Williams testified that he knows what he did was wrong. He repaid the State for the improper benefits.

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

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<sup>1</sup> While the Department's decision does not specifically state that the overpayment was the result of misrepresentation, the decision states that it was made under section 96.16(4) of the Iowa Code. That section relates to overpayments made as a result of misrepresentation and the consequences the Department may impose.

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>2</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>3</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 ten weeks through twenty four months. The investigator has broad discretion to determine the actual penalty to be imposed within the range.<sup>4</sup>

The Department's investigator testified at hearing that she imposed an 18 week penalty on Mr. Williams based on the severity of the offense. Based upon the fact that the Appellant came forward, accepted responsibility and repaid the overpayment, the undersigned finds that the minimum penalty shall be imposed.

The administrative penalty shall be amended from 18 weeks down to the minimum of 10 weeks.

### **DECISION**

Iowa Workforce Development's decision dated January 11, 2012 reference 1, is **AFFIRMED** but **MODIFIED** from 18 weeks to 10 weeks. The Department shall take any action necessary to implement this decision.

jmp

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<sup>2</sup> Iowa Code § 96.5(8) (2011).

<sup>3</sup> *Id.*

<sup>4</sup> 871 Iowa Administrative Code (IAC) 25.9(2).