

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ABBEY JOHNSTON
Claimant

CNOS FOUNDATION
Employer

APPEAL 22A-UI-05496-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.19 (38) – Total and Partial Unemployment
Iowa Code § 96.5 (5) – Other Compensation
Iowa Admin. Code. r- 871-24.10 –Wage Earning Limitations

STATEMENT OF THE CASE:

On February 24, 2022, the claimant filed an appeal from the February 14, 2022, (reference 02) unemployment insurance decision that determined she was overpaid \$481.00 in regular benefits based on a finding that the claimant incorrectly reported her gross wages for the one-week period ending April 4, 2020. The parties were properly notified about the hearing. . No hearing was held as there was sufficient evidence in the administrative record, appeal letter, and accompanying documents to resolve the matter without testimony. Department Exhibit D-1 was admitted.

ISSUES:

Did claimant incorrectly report wages?
If so, is the claimant overpaid benefits as a result?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant's weekly benefit amount (WBA) is \$481.00. Claimant did not earn any gross wages for the week ending April 4, 2020. The employer initially submitted a Wage Record that stated the claimant was paid \$730.76 in gross wages and \$200.00 in bonus pay for that week. Prior to the scheduled hearing the employer submitted an amended wage record that noted the claimant was not paid any wages or other compensation from the employer for the week in question. The claimant correctly reported that she earned \$0.00 in gross wages for the week ending April 4, 2020, and was paid \$481.00 in benefits for that week. The claimant was not overpaid regular unemployment benefits for the week ending April 4, 2020.

REASONING AND CONCLUSIONS OF LAW:

ONLINE RESOURCES:

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>
UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>
Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>
Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>
National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

For the reasons that follow, the administrative law judge concludes the claimant correctly reported wages for the week ending April 20, 2020 and is not overpaid as a result.

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.

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.

Iowa Admin. Code r. 871-23.2(2) provides:

Definition of wages for employment during a calendar quarter.

(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The Employer's Contribution and Payroll Report, Form 65-5300, shall be used as prima facie evidence of when the wages were paid. If the wages are not listed on the 65-5300, they shall be considered as paid:

- a. On the date appearing on the check.
- b. On the date appearing on the notice of direct deposit.
- c. On the date the employee received the cash payment.
- d. On the date the employee received any other type of payment in lieu of cash.

Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

Wage deduction from benefits is calculated as follows:

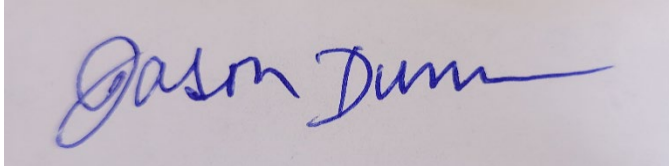
Gross wages (or holiday pay) – 25% of WBA = deduction from benefits (round down)
\$204 - (.25 x \$220 = \$55) = \$149 deduction from benefits
\$220 - \$149 = \$71 partial benefits

See also Unemployment Insurance Benefits Handbook for further explanation.

Since claimant did not earn wages for the week in question, there was no overpayment of benefits.

DECISION:

The February 14, 2022, (reference 02) unemployment insurance decision is reversed. Wages were correctly reported. The claimant was not overpaid unemployment insurance benefits in the amount of \$481.00. The claimant was not overpaid regular unemployment benefits.



Jason Dunn
Administrative Law Judge
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April 15, 2022
Decision Dated and Mailed

jd/scn