

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**PETE L JAHR**  
Claimant

**APPEAL NO. 08A-DUA-00033-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

FEDERAL UNIT  
ADMINISTRATIVE OFFICE

**OC: 06/08/08 R: 02**  
**Claimant: Appellant (2-R)**

20 CFR 625.6 - Weekly Amount of DUA

**STATEMENT OF THE CASE:**

The claimant appealed a Disaster Unemployment Assistance (DUA) decision dated August 26, 2008, that concluded the claimant was entitled to \$147.00 per week in DUA benefits. A telephone hearing was held on September 30, 2008. The claimant participated in the hearing. Exhibits A and B were admitted into evidence at the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

What is the correct weekly benefit amount of DUA for the claimant?

**FINDINGS OF FACT:**

The claimant filed an initial application for DUA on August 6, 2008, with an effective date of June 8, 2008. He has four dependents. The claimant had net income from self-employment of \$66,053.00 in 2007 based on his Schedule SE. That income included his net farm loss of \$8,587.00 from his own farming operation and the net profit of \$74,640.00 from his seed sales business and his farm partnership with his brother. As of June 8, 2008, the average weekly payment of regular unemployment compensation in Iowa was \$294.00.

The claimant has reported the gross income from sales of crops during the week the income was received.

**REASONING AND CONCLUSIONS OF LAW:**

"The Robert T. Stafford Disaster Relief and Emergency Assistance Act" includes a program for the payment of unemployment assistance benefits to individuals unemployed as a result of a major disaster. See 42 USC §§ 5177, 5189a; 20 CFR Part 625. Under the pertinent federal regulations, the amount of DUA payable to an unemployed individual shall be the weekly amount of regular unemployment compensation the individual would have been paid, as computed under the provisions of the state law and based on the individual's income during the previous tax year. However, if the weekly amount is less than 50 percent of the average weekly

payment of regular compensation in the state or the individual has insufficient wages from employment or insufficient or no net income from self-employment to compute a weekly amount, the individual is entitled to a weekly amount equal to 50 percent of the average weekly payment of regular compensation in the state. 20 CFR § 625.6(b). The self-employment income to be treated as wages for purposes of computing the weekly amount shall be the net income reported on the tax return of the individual as income from all self-employment that was dependent upon the performance of services by the individual. 20 CFR § 625.6(a)(2).

The rules specify that income from all self-employment is to be used in deciding the weekly benefit amount of DUA benefits. They do not state that only net farm income is to be considered because the DUA program is not restricted to farmers, or that for farmers unemployed due to a disaster, only the net farm income is to be used. They do not state that only the self-employment income from the business directly affected by the disaster should be used in calculating the weekly benefit amount of DUA benefits, although it would have been reasonable for the Department of Labor to have made that distinction. I can find no interpretive guidance on this question in the ET HANDBOOK NO. 356 (Disaster Unemployment Assistance Handbook) or elsewhere and no case law regarding this issue. The law directs then that claimant's weekly benefit amount be based on the net income from all self-employment reported on the tax return, which according to the claimant's Form SE would be \$66,053.00.

The matter of calculating the claimant's weekly benefit amount based on self-employment income of \$66,053.00 is remanded to the agency.

The claimant also questioned why the gross income from sales of crops during the week the income was received should be deducted from his DUA benefits rather than net income after expenses. The reason is that the law requires it. Under 20 CFR § 625.7(f)(2), the weekly amount of DUA shall be reduced by the amount of income received during the week and income is defined as gross income.

**DECISION:**

The DUA decision dated August 26, 2008, is reversed. The claimant's weekly amount of DUA was miscalculated. The matter of calculating the claimant's weekly benefit amount based on self-employment income of \$66,053.00 is remanded to the agency.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs