

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEANNA G LIMKE
Claimant

APPEAL 20A-UI-09527-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 07/19/20
Claimant: Appellant (2)

Iowa Code § 96.5(13) – Disqualification due to Outstanding Fraud Overpayment
Iowa Code § 96.16(4) – Offenses and Misrepresentation

STATEMENT OF THE CASE:

On August 6, 2020, Deanna G. Limke (claimant/appellant) filed an appeal from the July 29, 2020, reference 01, Iowa Workforce Development (“IWD”) unemployment insurance decision, which concluded she was ineligible for unemployment insurance benefits due to an outstanding fraud overpayment balance. The parties were properly notified of the hearing. A telephone hearing was scheduled for September 25, 2020. The claimant registered for the hearing; however, no hearing was held, as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

ISSUE:

Is the claimant ineligible for benefits due to an outstanding fraud overpayment balance?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits effective October 9, 2011. Following an investigation, the IWD investigator issued a decision dated July 23, 2012, reference 08, finding the claimant was denied benefits from April 1 through June 30 due to a failure to conduct a work search. The investigator did not find the failure to conduct a work search was due to fraud.

The IWD investigator issued another decision dated July 27, reference 01, finding the claimant had been overpaid \$1,075.00 in unemployment insurance benefits for the weeks in which she had been disqualified. The investigator did not identify this as a fraud overpayment and did not assess the fifteen percent fraud penalty allowed under Iowa law. The claimant did not appeal these decisions and they have become final agency action.

The claimant filed a new claim for benefits effective July 19, 2020. On July 29, IWD issued a decision that she was not eligible for unemployment insurance benefits due to an unpaid fraud overpayment. IWD records show the claimant still owes the \$1,075.00 but no interest or penalties have accrued on the balance.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant does not have a fraud overpayment and is eligible for benefits.

Iowa Code section 96.16(4) provides:

Offenses.

4. Misrepresentation.

a. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under this chapter or shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph "a" and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

Iowa Code section 96.5(13) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

13. Overpayment resulting in disqualification. If the department finds that an individual has received benefits by reason of misrepresentation pursuant to section 96.16, such individual shall be disqualified for benefits until the balance of the benefits received by the individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

"Fraud" means the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or by the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or the department, shall not act upon it to their, or its, legal injury. Iowa Admin. Code r. 871- 25.1. "Misrepresentation" means to give misleading or deceiving information to or omit

material information; to present or represent in a manner at odds with the truth. Iowa Admin. Code r. 871- 25.1

Based on the administrative record, the claimant currently owes a balance of \$1,075.00 in unemployment insurance benefits to the agency. However, this is not due to fraud. Therefore, benefits are allowed, provided she is otherwise eligible.

DECISION:

The July 29, 2020, reference 01, unemployment insurance decision is reversed. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The first \$1,075.00 of unemployment insurance benefits for which she is eligible will be used to offset the outstanding overpayment.

A handwritten signature in blue ink that reads "Stephanie R Callahan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Stephanie R. Callahan
Administrative Law Judge

September 28, 2020
Decision Dated and Mailed

src/scn