

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

**Appeal Numbers: 13IWDUI110-12**  
**OC: 10/28/12**  
**Claimant: Appellant (4)**

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**CAROL DEDRICK**  
**2216 PLAINVIEW STREET**  
**WATERLOO, IA 50707-2328**

**IOWA WORKFORCE DEVELOPMENT**  
**IRMA LEWIS, INVESTIGATOR**

JOSEPH WALSH, IWD  
JONI BENSON, IWD

**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 written Notice of Appeal, directly to the **Employment Appeal Board, 4th 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.

STATE CLEARLY

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.

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(Administrative Law Judge)

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April 15, 2013

(Dated and Mailed)

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Iowa Code section 96.4-3 – Eligibility for Benefits  
Iowa Code section 96.6-2 – Recovery of Overpayment Benefits  
Iowa Code section 96.16-4 – Misrepresentation

**STATEMENT OF THE CASE**

Claimant/Appellant Carol Dedrick appealed two decisions issued by Respondent Iowa Workforce Development (“IWD”) dated February 18, 2013, reference 06, and February 19, 2013, reference 07. In reference 06, IWD found Dedrick was ineligible to receive unemployment insurance benefits from January 6, 2013 through January 26, 2013 because her physician indicated she was unable to perform work during this period. In

reference 07, IWD found Dedrick received a \$402 overpayment for two weeks between January 6, 2013 and January 26, 2013 because her physician determined she was unable to work.

On March 1, 2013, IWD transmitted the cases to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the case, it mailed copies of the administrative files to Dedrick. A contested case hearing was scheduled for April 15, 2013. Prior to the hearing, Irma Lewis from IWD submitted additional documents to the administrative law judge and Dedrick.

A contested case hearing was held on April 15, 2013. Dedrick appeared and testified. Lewis appeared and testified on behalf of IWD. There was some confusion as to whether Dedrick had received the exhibits. Dedrick elected to proceed with the hearing and did not want the hearing continued. Exhibits 1 through 9 were admitted into the record.

### **ISSUES**

Whether IWD correctly determined the Claimant is ineligible to receive unemployment insurance benefits.

Whether IWD correctly determined that the Claimant was overpaid unemployment benefits, and, if so, whether the overpayment was correctly calculated.

Whether IWD correctly determined the overpayment was a result of misrepresentation.

### **FINDINGS OF FACT**

Dedrick has been diagnosed with sensitive, chronic, life-threatening diseases. She receives treatment locally in Waterloo and through the University of Iowa.

IWD conducted an audit of Dedrick's case. During the audit IWD learned Dedrick had received treatment through the University of Iowa. Dedrick's physician at the University of Iowa prepared a Request for Medical Report stating Dedrick could not work from January 7, 2013 to "unknown." (Exhibit 6). The Request for Medical Report indicated Dedrick was hospitalized and discharged on January 12, 2013.

Dedrick also submitted a Certificate to Return to Work from Carry Berry, NP, with Peoples Community Health Clinic, stating Dedrick was released to return to work on January 23, 2013, a Wednesday, without restriction.

Lewis testified Dedrick receive benefits for two weeks during the period when Dedrick was restricted from working, totaling \$402, or \$201 per week. Dedrick denied receiving the benefits. Dedrick testified she had not received any benefits after the first part of February 2013. The benefits in question were from January 2013. Lewis testified IWD's records show Dedrick received the benefits.

IWD issued two decisions. In reference 06, IWD found Dedrick was ineligible to receive unemployment insurance benefits from January 6, 2013 through January 26, 2013

because her physician indicated she was unable to perform work during this period. In reference 07, IWD found Dedrick received a \$402 overpayment for two weeks between January 6, 2013 and January 26, 2013 because her physician determined she was unable to work. Dedrick appealed the decisions.

Dedrick raised issues at hearing regarding benefits she received after January 2013. Lewis provided Dedrick with a telephone number to contact IWD regarding the benefits. Those matters were not certified for hearing.

## **REASONING AND CONCLUSIONS OF LAW**

### **I. Eligibility for Benefits**

To be eligible to receive unemployment benefits, an unemployed individual must be able and available for work, and is earnestly and actively seeking work.<sup>1</sup> The issue in this case is whether Green was able to work. An individual must be physically and mentally able to work in some gainful employment.<sup>2</sup> When an individual has an illness or injury IWD decides each case based upon its individual facts, “recognizing that various work opportunities present different physical requirements.”<sup>3</sup> IWD’s rules provide that a statement from a medical practitioner “is considered prima facie evidence of the physical ability of the individual to perform the work required.”<sup>4</sup> The ability to work “means the individual must be physically able to work, not necessarily in the individual’s customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor other than self-employment, which is generally available in the labor market in which the individual resides.”<sup>5</sup>

IWD’s rules do not require that the individual be able to perform the individual’s former occupation, rather the rules require she “be able to work in some reasonably suitable, comparable, gainful, full-time endeavor.”<sup>6</sup> Dedrick’s physician at the University of Iowa prepared a Request for Medical Report stating Dedrick could not work from January 7, 2013 to “unknown.” (Exhibit 6). The Request for Medical Report indicated Dedrick was hospitalized and discharged on January 12, 2013. Dedrick also submitted a Certificate to Return to Work from Carry Berry, NP, with Peoples Community Health Clinic, stating Dedrick was released to return to work on January 23, 2013, a Wednesday, without restriction. During the period of January 6, 2013 through January 23, 2013, Dedrick was not able to work. IWD correctly determined she was ineligible to receive unemployment insurance benefits during this period.

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<sup>1</sup> Iowa Code § 96.4(3).

<sup>2</sup> 441 IAC 24.22(1).

<sup>3</sup> *Id.* 24.22(1) a.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* 24.22(1) b.

<sup>6</sup> 441 IAC 24.22(1) b.

## II. Overpayment and Misrepresentation

IWD contends Dedrick received an overpayment due to misrepresentation. When IWD determines an individual who received unemployment benefits was ineligible to receive benefits, IWD must recoup the benefits received irrespective of whether the individual acts in good faith and is not otherwise at fault.<sup>7</sup> If an individual, by reason of a nondisclosure or misrepresentation receives unemployment benefits, IWD may either deduct the overpayment amount from any future benefits payable to the individual or seek repayment directly from the individual.<sup>8</sup> IWD presented no evidence at hearing Dedrick engaged in any misrepresentation. Dedrick was forthcoming with documents from her physicians regarding her incapacity. The misrepresentation finding should be reversed.

IWD also found Dedrick received unemployment insurance benefits for two weeks totaling \$402 during her period of incapacity. Dedrick testified she did not receive the benefits, but noted she had not received benefits since the first part of February 2013. The benefits in question were from January 2013. IWD has proven Dedrick received an overpayment of \$402.

### DECISION

IWD's decision, dated February 18, 2013, reference 06 is AFFIRMED. IWD correctly found Dedrick was ineligible to receive unemployment insurance benefits. IWD's decision, dated February 19, 2013, reference 07, is MODIFIED. IWD has proven Dedrick received a \$402 overpayment, but has not proven the overpayment was due to misrepresentation.

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<sup>7</sup> Iowa Code § 96.3(7).

<sup>8</sup> *Id.* § 96.16(4).