

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALLYSON R PARMAN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 19A-UI-04775-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/18/18
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant/appellant, Allyson R. Parman, filed an appeal from the June 4, 2019, (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was overpaid unemployment insurance benefits because she failed to accurately report earnings while concurrently filing weekly claims for unemployment insurance benefits.

The parties were properly notified of the hearing. A telephone hearing was held on July 10, 2019. The claimant, Allyson R. Parman, participated personally. Tyler Lysinger, Investigator, participated on behalf of IWD. IWD Exhibits 1 through 15 were admitted. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did IWD correctly determine that the claimant was overpaid unemployment insurance benefits, and was the overpayment amount correctly calculated?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits with an effective date of March 18, 2018.

When the claim was established the claimant was given the option of reading the Unemployment Insurance Handbook online or a hardcopy. (Department Exhibit 2) The Unemployment Insurance Handbook includes instructions for properly filing claims and informs claimants that failure to follow the instructions could result in a denial or overpayment of benefits. The handbook also informs claimants that they should call IWD customer service for help if they don’t understand the information in the handbook.

With respect to “Reporting Earnings,” the handbook states:

Gross earnings/wages (before tax and payroll deductions) must be reported on the weekly claim during the week the wages are earned, not when the wages are paid. Earnings must be reported even if the payment has not been received yet. To calculate the amount to report, the individual should multiply the number of hours worked by the hourly wage. Individuals should report the full gross amount of earnings and IWD will calculate any deductions. If an individual earns \$15.00 over their WBA, they will not receive a benefit payment

The handbook also provides in part:

Overpayment

Individuals are responsible for repaying any benefits they were not eligible to receive. Future UI benefit payments are withheld until the overpayment has been recovered in full. If the individual is not making attempts to repay the overpayment, the debt may be recovered by withholding state and federal tax refunds, casino and lottery winnings, and vendor payments. Overpayments caused by fraud include a 15% penalty.

(Department Exhibit 11)

In addition, each week the claimant would complete a weekly continued claim, she would see a screen online which provided:

It is important that you answer all questions truthfully.

WARNING: Attempting to claim and receive unemployment insurance benefits by entering false information can result in loss of benefits, fines and imprisonment.

Before completing her weekly continued claim each week, the claimant had to check a box that stated she understood the warning message above and wished to proceed (Department Exhibit 12).

IWD conducted an audit and discovered that claimant received wages from B K Electric, Incorporated, during the time period of April 29, 2018, through January 5, 2019, but failed to accurately report the wages. IWD contacted the employer on May 3, 2019, to verify the claimant's wages earned with employer, B K Electric, Incorporated. (Department Exhibit 9) The employer confirmed the claimant performed work during the relevant time period and completed a request for wage records. (Department Exhibit 10.5-10.6)

A review of the administrative file reflects the claimant did not report the same wages as the employer.

As a result of the employer's verification of wages, Lysinger also contacted the claimant. The claimant was mailed a notice to report on May 17, 2019, which stated she may have been overpaid benefits in the amount of \$3,201.00, for failing to report her wages. (Department Exhibit 10)

The claimant does not dispute the overpayment amount or provide evidence that the wages reported by the employer were inaccurate. The claimant did not report the wages as reported by the employer because she was confused and reported her net income instead of her gross income each week.

Claimant's weekly benefit amount was \$455.00. (Department Exhibit 10.3) Because the claimant did not accurately report her wages during this same period, an overpayment of \$2,424.00 was determined by IWD. (Department Exhibit 10.3-10.4) The agency established the overpayment based upon the following incorrect payments made to the claimant:

WEEK ENDING	WAGES REPORTED	WAGES EARNED	BENEFITS PAID	BENEFITS ENTITLED	OVERPAYMENT
5/5/18	\$241.00	\$275.00	\$327.00	\$293.00	\$34.00
5/12/18	\$342.00	\$324.00	\$226.00	\$244.00	(\$18.00)
5/19/18	\$342.00	\$338.00	\$226.00	\$230.00	(\$4.00)
5/26/18	\$283.00	\$324.00	\$285.00	\$244.00	\$41.00
6/2/18	\$347.00	\$293.00	\$221.00	\$275.00	(\$54.00)
6/9/18	\$273.00	\$306.00	\$295.00	\$262.00	\$33.00
6/16/18	\$258.00	\$320.00	\$310.00	\$248.00	\$62.00
6/23/18	\$269.00	\$315.00	\$299.00	\$253.00	\$46.00
6/30/18	\$265.00	\$315.00	\$303.00	\$253.00	\$50.00
7/7/18	\$330.00	\$198.00	\$238.00	\$370.00	(\$132.00)
7/14/18	\$174.00	\$297.00	\$394.00	\$271.00	\$123.00
7/21/18	\$251.00	\$432.00	\$317.00	\$136.00	\$181.00
7/28/18	\$350.00	\$324.00	\$218.00	\$244.00	(\$26.00)
8/4/18	\$260.00	\$225.00	\$308.00	\$343.00	(\$35.00)
8/11/18	\$195.00	\$252.00	\$373.00	\$316.00	\$57.00
8/18/18	\$195.00	\$194.00	\$373.00	\$374.00	(\$1.00)
8/25/18	\$171.00	\$500.00	\$397.00	\$0.00	\$397.00
9/1/18	\$404.00	\$212.00	\$194.00	\$356.00	(\$162.00)
9/8/18	\$257.00	\$378.00	\$311.00	\$190.00	\$121.00
9/15/18	\$313.00	\$423.00	\$255.00	\$145.00	\$110.00
9/22/18	\$308.00	\$369.00	\$260.00	\$199.00	\$61.00
9/29/18	\$268.00	\$414.00	\$300.00	\$154.00	\$146.00
10/6/18	\$303.00	\$315.00	\$265.00	\$253.00	\$12.00
10/13/18	\$228.00	\$297.00	\$340.00	\$271.00	\$69.00
10/20/18	\$223.00	\$446.00	\$345.00	\$122.00	\$223.00
10/27/18	\$325.00	\$401.00	\$243.00	\$167.00	\$76.00
11/3/18	\$297.00	\$392.00	\$271.00	\$176.00	\$95.00
11/10/18	\$285.00	\$491.00	\$283.00	\$0.00	\$283.00
11/17/18	\$359.00	\$374.00	\$209.00	\$194.00	\$15.00
11/24/18	\$323.00	\$387.00	\$245.00	\$181.00	\$64.00
12/1/18	\$281.00	\$266.00	\$287.00	\$302.00	(\$15.00)
12/8/18	\$190.00	\$541.00	\$378.00	\$0.00	\$378.00
12/15/18	\$322.00	\$482.00	\$246.00	\$0.00	\$246.00
12/22/18	\$290.00	\$477.00	\$278.00	\$0.00	\$278.00
12/29/18	\$421.00	\$284.00	\$147.00	\$284.00	(\$137.00)
1/5/19	\$277.00	\$302.00	\$73.00	\$266.00	(\$193.00)
				NET TOTAL:	\$2,424.00

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes IWD did correctly establish and calculate the claimant's overpayment of benefits.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

Recovery of overpayment of benefits. 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 division of job service 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 division a sum equal to the overpayment.

The administrative law judge is persuaded the claimant knew or should have known she must report all wages earned each week that she sought to claim unemployment insurance benefits, and that failure to properly do so, could result in an overpayment, which she must repay. No evidence was presented that the wages reported by the employer to IWD were inaccurate or incorrect. Consequently, the claimant was able to collect both wages and unemployment insurance benefits each week. As a result, the claimant was overpaid benefits in the amount of \$2,424.00, to which she was not entitled. The administrative law judge concludes therefore, that the overpayment was correctly calculated.

Therefore, the administrative law judge concludes the calculated overpayment was correct, and the claimant omitted material information to IWD when she failed to correctly report wages earned for the period of April 29, 2018, through January 5, 2019, and concurrently filed for unemployment insurance benefits. Accordingly, the administrative law judge concludes the overpayment was correctly calculated.

DECISION:

The June 4, 2019, (reference 02) unemployment insurance decision is affirmed. The claimant has been overpaid unemployment insurance benefits.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn