

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

THOMAS L. INGRAM
2101 MEADOW COURT #1405
DES MOINES, IA 50320

INVESTIGATION AND RECOVERY
IOWA WORKFORCE DEVELOPMENT
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

JOE WALSH, IWD

Appeal Number: 11-IWDUI-122
OC: 03/27/11
Claimant: Appellant (1)

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.

(Administrative Law Judge)

June 30, 2011

(Decision Dated & Mailed)

Section 96.5-8 - Administrative Penalty
871 IAC 25.9(2) - Penalties

STATEMENT OF THE CASE

Claimant Thomas Ingram filed an appeal from an Iowa Workforce Development Department decision dated April 22, 2011, reference 02, which disqualified him from receiving benefits for the period from April 17, 2011 until March 24, 2012, as an administrative penalty for false statements made to receive unemployment insurance benefits.

Hearing proceeded on June 29, 2011, before Administrative Law Judge Robert H. Wheeler, at the Wallace State Office Building in Des Moines, Iowa. The Claimant appeared pro se and testified. Investigator Irma Lewis appeared and testified on behalf

of Iowa Workforce Development (IWD). Exhibits 1 – 23 entered the record without objection.

FINDINGS OF FACT

The Claimant, Mr. Ingram had previously been found to have received overpayments of benefits due to false statements on two occasions. An IWD decision dated September 17, 2008, found that he had been overpaid \$578 for a five week period due to his misrepresentation. (Exhibit 6). Another decision dated December 11, 2008, found that he had been overpaid \$2,429 for a seven week period due to his misrepresentation. (Exhibit 7). These two decisions were not appealed and became final. (Lewis testimony).

IWD notes or “flags” the social security numbers of parties who have been overpaid due to misrepresentation in order to receive notice in the event that the subject re-applies for unemployment benefits. IWD so flagged Mr. Ingram’s social security number and received notice when he again applied for benefits on March 27, 2011. (Lewis testimony).

On April 13, Investigator Lewis sent Mr. Ingram a letter and a notice of a fact finding interview to give him an opportunity to respond to the potential of an administrative penalty due to past misrepresentation. (Exhibits 5, 10; Lewis testimony).

Mr. Ingram called Ms. Lewis on April 16, 2011, to discuss the situation. Mr. Ingram stated that he had already been penalized by the filing of criminal charges and complete restitution to IWD. Criminal charges were all dismissed, and Mr. Ingram did, in fact, repay all of the overpaid benefits to IWD. (Exhibit 21; Lewis, Ingram testimony).

That same day, Mr. Ingram sent IWD a letter detailing his situation that led to his fraudulent overpayments. He engaged in legal action regarding custody and support for his son and found himself in a desperate financial situation. Rather than lose custody of his son, Mr. Ingram wrongly availed himself of unemployment benefits. (Exhibits 9, 23; Ingram testimony).

On April 22, 2011, the decision under appeal issued. IWD imposed an administrative penalty according to departmental guidelines. Ms. Lewis testified that under the guidelines any overpayment in excess of nine weeks calls for a penalty of disqualification until the end of the benefit year. Mr. Ingram’s past overpayments totaled twelve weeks. Because Mr. Ingram applied for benefits on March 27, 2011, his benefit year will end on March 24, 2012. (Exhibit 4; Lewis testimony).

Mr. Ingram testified that he felt animosity from Investigator Lewis and he feared that the penalty in his case was arbitrarily based on their contentious relationship. (Exhibit 20; Ingram testimony).

CONCLUSIONS OF LAW

The issue in this appeal is whether the department correctly imposed an administrative

penalty disqualifying Thomas Ingram from receiving unemployment insurance benefits for the period commencing April 17, 2011 until March 24, 2012.

Iowa law provides for imposition of an administrative penalty when it is determined that an individual has, within the 36 months prior to a claim for unemployment benefits, willfully and knowingly failed to disclose a material fact with the intent to obtain benefits to which he or she is not entitled. The penalty consists of a forfeiture of benefits for no longer than the remaining benefit period. The administrative penalty is to be imposed in addition to all other applicable penalties. Iowa Code section 96.5-8.

The department has adopted rules for the implementation of administrative penalties. Those rules stress that each case must be decided on its merits and that the degree and severity of the penalty is to be determined at the discretion of the investigator. 871 IAC 25.9(2)(b), 25.9(2)(c)(1). The penalty for falsification ranges from three weeks through the end of the benefit year. 871 IAC 25.92)(b).

Here, Mr. Ingram was the subject of two overpayment decisions based on his misrepresentation. He did not appeal those decisions, and they became final. Mr. Ingram suffered economic hard times and genuinely compelling personal circumstances regarding custody of his son, but did admit to the prior false statements to obtain benefits.

Iowa law clearly provides for the imposition of the administrative penalty under the facts of Mr. Ingram's case and specifically provides for an administrative penalty in addition to all other applicable penalties. Investigator Lewis testified to the decision process regarding the length of this administrative penalty, and such a decision rests in the investigator's discretion. Contrary to Mr. Ingram's impression, that decision was made pursuant to uniform departmental guidelines and not on any personal basis. The administrative penalty imposed by the department must stand.

DECISION

The decision of Iowa Workforce Development dated April 22, 2011, reference 02 is **AFFIRMED**. Thomas Ingram is disqualified from receiving benefits for the period from April 17, 2011 through March 24, 2012.

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