

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**JENNIFER HAMILTON**  
Claimant

**APPEAL 22A-UI-16025-JD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20  
Claimant: Appellant (1)**

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Iowa Code § 96.5(13) – Disqualification due to outstanding fraud overpayment

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the August 3, 2022 (reference 05) unemployment insurance decision that determined claimant is not eligible for benefits due to an outstanding fraud overpayment balance.

The parties were properly notified of the hearing. A telephone hearing was held on October 7, 2022. Claimant Jennifer Hamilton participated and testified. John Gipson appeared as the hearing representative for the claimant. Iowa Workforce Development (IWD) appeared through Jennifer Vogt, Investigator and Jeffrey Konscol, Attorney for IWD. Department Exhibits 1-9 were admitted. Claimant's exhibit A, B, C, were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant is 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:

On August 3, 2022, IWD issued the following decisions:

Reference 01 - finding claimant was overpaid regular benefits in the amount of \$7,803.00 (as modified by decision) and assessing a \$1,170.45 fraud penalty due to misrepresentation. The claimant's regular unemployment benefit overpayment including 15% fraud penalty is \$8,973.45. That decision remains in effect as modified (See appeal 22A-UI-16021-JD-T);

Reference 02, 03 - finding the claimant was overpaid \$9,900.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits and imposing a 15% fraud penalty of \$1,485.00 for a total Fraudulent FPUC overpayment of \$11,385.00

Reference 04 – finding the claimant was overpaid \$1,500.00 in Lost Wage Assistance program payments (LWA) and imposing a 15% fraud penalty of \$225.00 for a total LWA fraud overpayment of \$1,725.00.

To date, claimant has not paid the fraud overpayment balance, including interest and penalty. The current balance owed is \$22,083.45. (Exhibit A11-1)

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

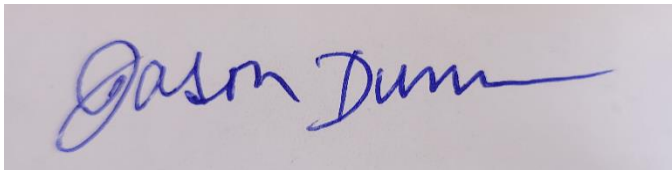
Iowa Code section 96.5(13) provides:

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.

Claimant currently owes a fraud overpayment balance of \$22,083.45 and, therefore, is not eligible for benefits at this time.

**DECISION:**

The August 3, 2022 (reference 05) unemployment insurance decision is AFFIRMED. Benefits are withheld until claimant has paid the unpaid fraud overpayment balance, plus penalties, and is otherwise eligible.



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Jason Dunn  
Administrative Law Judge

October 20, 2022  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> OR by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. 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.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.