

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

BONITA GALVEZ
PO BOX 1683
MARSHALLTOWN, IA 50158

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

JOE WALSH, IWD
JONI BENSON, IWD

Appeal Number: 12-IWDUI-596
OC: 03/04/12
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)

February 19, 2013

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE

Claimant Bonita Galvez filed an appeal from an Iowa Workforce Development Department decision dated October 26, 2012, reference 1, which disqualified her from receiving benefits for the period from September 16, 2012 through March 2, 2013, due to a prior overpayment history based on misrepresentation.

Hearing was scheduled for February 15, 2013 and due notice was sent to all parties. At the time of hearing, Investigator Irma Lewis appeared and participated on behalf of Iowa Workforce Development. Appellant Bonita Galvez appeared and was self-represented. The

documents contained in the administrative file, numbered 1-9, were admitted into evidence as was a packet of documents submitted by Appellant as Exhibit A.

FINDINGS OF FACT

The department conducted an audit and investigation on a claim for benefits made by Bonita Galvez. On November 1, 2011, a representative of Iowa Workforce Development issued a decision that Ms. Galvez was overpaid benefits in the amount of \$2,801.07 for the period beginning on April 18, 2010 and ending July 30, 2011 due to misrepresentation. That decision has become final.

Ms. Galvez filed a new claim for benefits effective March 4, 2012. After Investigator Irma Lewis was notified of the claim, she sent a notice to Ms. Galvez scheduling an interview to discuss whether an administrative penalty should be assessed on Ms. Galvez' current unemployment claim. The issue arose because of the previous overpayment which resulted from misrepresentation to the department as to wages earned.

The interview was conducted as scheduled. During the interview, Ms. Galvez admitted that she did not properly report her earnings with two separate employers because she was behind on her bills and her husband was not helping her out.

On October 26, 2012, the department issued its decision imposing an administrative penalty against Ms. Galvez disqualifying her from receiving benefits from September 16, 2012 through March 2, 2013.

Ms. Galvez filed this appeal. At hearing she admitted that she knew she should not make false reports to the department regarding her income and that she was sorry she had do so. However, Ms. Galvez noted that she was required to repay the benefits she received by providing information and expressed her opinion that she was being punished twice with the present administrative penalty. Ms. Galvez expressed remorse for supplying false information to the department.

CONCLUSIONS OF LAW

The issue in this appeal is whether the department correctly imposed an administrative penalty disqualifying Bonita Galvez from receiving unemployment insurance benefits for the period commencing November 30, 2008 through January 10, 2009.

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.¹

¹ 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.² The penalty for falsification ranges from three weeks through the end of the benefit year.³

Here, Ms. Galvez was the subject of an overpayment decision based on her misrepresentation to the department. That decision has become final. Additionally, she admitted that he misrepresented her earnings information to the department during her telephone interview with Ms. Lewis and again at hearing.

Iowa law clearly provides for the imposition of the administrative penalty under the facts of Ms. Galvez' case and specifically provides for an administrative penalty in addition to all other applicable penalties. The administrative penalty imposed by the department must be affirmed.

DECISION

The decision of Iowa Workforce Development dated October 26, 2012, reference 1 is AFFIRMED. Bonita Galvez is disqualified from receiving benefits for the period from September 16, 2012 through March 2, 2013.

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² 871 IAC 25.9(2)(b), 25.9(2)(c)(1).

³ 871 IAC 25.92(b).