

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TABITHA C GREEN
Claimant

APPEAL 20A-UI-05124-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.5(13) – Disqualification due to Outstanding Fraud Overpayment
Iowa Code § 96.16(4) – Offenses and Misrepresentation

STATEMENT OF THE CASE:

On May 28, 2020, Tabitha Green (claimant/appellant) filed an appeal from the May 21, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was ineligible for unemployment insurance benefits due to an outstanding overpayment balance.

The parties were properly notified of the hearing. A telephone hearing was held on July 2, 2020. The claimant participated personally. IWD Investigation and Recovery Unit elected to participate by writing only and IWD Exhibits 1-1, 2-1, and 3-1 were admitted into evidence. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUE:

Is the claimant 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:

The claimant filed a claim for unemployment insurance benefits with an effective date of August 16, 2009. During that claim year, an investigatory audit was conducted. A decision was issued October 1, 2020, finding claimant was not available for work due to incarceration, and as such benefits were denied as of June 19, 2010 (Department’s Exhibit 1-1).

Consequently, a decision was issued on October 4, 2010, which found that the claimant was overpaid benefits in the amount of \$2,204.78. (Department Exhibit 2-1) The claimant did not appeal the decision and it became final.

The claimant then established a claim with an effective date of April 5, 2020. To date, the claimant has failed to pay the outstanding overpayment amount owed. The current outstanding balance owed is \$2,204.78 (Department Exhibit 3-1).

Claimant testified that the benefits paid during that period were the result of identity theft. Claimant was incarcerated at the time and thus had no way of filing weekly claims or collecting benefits. Claimant's parents reported this to the department, which in turn referred them to law enforcement. After claimant's release, she failed to follow up with law enforcement or the department.

Claimant is currently unemployed due to the pandemic.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is ineligible for benefits due to an outstanding overpayment. Benefits are denied at this time and continuing until the balance owed is paid.

Iowa Code section 96.16(4)(a) provides:

An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall, be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

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.


The administrative law judge is sympathetic to claimant's position. It appears the overpayment is due to her being the victim of identity theft. However, claimant never took the steps necessary to resolve that issue, and as such an overpayment still remains.

The only issue before the administrative law judge here is whether the claimant is ineligible due to an unpaid overpayment balance. The Department has established that there is an unpaid overpayment balance, and therefore the administrative law must find claimant is ineligible for benefits.

While this decision finds claimant ineligible for regular benefits, she may be eligible for Pandemic Unemployment Assistance. More information on PUA is set forth below.

DECISION:

The May 21, 2020 (reference 01) decision is AFFIRMED. The claimant is ineligible for benefits at this time due to an unpaid fraud overpayment balance. Benefits are withheld until the claimant has paid the unpaid fraud overpayment balance, plus any penalties, interest, and lien fees, and provided claimant is otherwise eligible.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

July 13, 2020
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.