

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SUSAN M LYNCH
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL NO. 24A-UI-04173-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (6)

Iowa Admin. Code R. 87126.8(1) – Dismissal of Appeal
Iowa Admin. Code R. 87124.19(3) – Agency Modification or Reversal of Prior Decision.

STATEMENT OF THE CASE:

On April 26, 2024, Susan Lynch (claimant) filed a timely appeal from the April 18, 2024 (reference 03) decision that held the claimant was overpaid \$4,662.26 in regular state benefits for the period between March 15, 2020 and September 5, 2020, based on an IWD determination that the claimant incorrectly reported wages earned with Radon Solutions of Iowa and Western Dubuque Community School District. The reference 03 decision included a 15% penalty and additional administrative penalties, based on an IWD determination that the claimant had misrepresented wages when making her weekly claims. The Appeals Bureau scheduled a consolidated appeal hearing for June 7, 2024 to address six appeal numbers: 24AUI04173JTT, 24AUI04174JTT, 24AUI04175JTT, 24AUI04176JTT, 24AUI04177JTT, 24AUI04178JTT. On May 14, 2024, IWD issued a reference 09 overpayment decision that modified the reference 03 decision by removing the fraud determination. On May 24, 2024, the claimant filed an appeal from the reference 09 decision.

ISSUE:

Whether the appeal should be dismissed.

FINDINGS OF FACT:

On April 26, 2024, Susan Lynch (claimant) filed a timely appeal from the April 18, 2024 (reference 03) decision that held the claimant was overpaid \$4,662.26 in regular state benefits for the period between March 15, 2020 and September 5, 2020, based on an IWD determination that the claimant incorrectly reported wages earned with Radon Solutions of Iowa and Western Dubuque Community School District. The reference 03 decision included a 15% penalty and additional administrative penalties, based on an IWD determination that the claimant had misrepresented wages when making her weekly claims. The Appeals Bureau scheduled an appeal hearing for June 7, 2024 to address six appeal numbers:

On May 14, 2024, IWD issued a reference 09 overpayment decision that modified the reference 03 decision by removing the fraud determination. On May 24, 2024, the claimant filed an appeal from the reference 09 decision. See Appeal Number 24AUI05095JTT.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 87126.8(1) provides as follows: "An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor."

Upon receiving a written request for review or, on its own initiative and on the basis of the facts as it may have in its possession or may acquire, the benefits bureau may affirm, modify, or reverse the prior decision. Iowa Administrative Code rule 87124.19(3).

In light of IWD's issuance of the May 14, 2024 (reference 09) decision that modified the reference 03 decision to remove the fraud determination, and in light of the claimant's May 24, 2024 appeal from the reference 09 decision, reference 03 decision and the appeal from that decision are moot. Accordingly, the appeal in this matter is dismissed. The appeal hearing set for June 7, 2024 is cancelled.

DECISION:

In light of IWD's issuance of the May 14, 2024 (reference 09) decision that modified the reference 03 decision to remove the fraud determination, and in light of the claimant's May 24, 2024 appeal from the reference 09 decision, reference 03 decision and the appeal from that decision are moot. Accordingly, the appeal in this matter is DISMISSED.



James E. Timberland
Administrative Law Judge

June 7, 2024
Decision Dated and Mailed

rvs

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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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>.

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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.