

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ARIANNA CORTES
Claimant

APPEAL 20A-UI-03554-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/19/20
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:

The claimant/appellant, Arianna Cortes, filed an appeal from the April 27, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was ineligible for unemployment insurance benefits due to an outstanding fraud overpayment balance. The parties were properly notified of the hearing. A telephone hearing was held on May 18, 2020. The claimant participated personally. IWD participated in writing only. Claimant’s Exhibit A was admitted. IWD Exhibit 1 was admitted into evidence. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

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 June 28, 2015. An investigatory audit was conducted regarding the claimant’s failure to report all wages while she concurrently filed weekly continued claims for benefits during that claim year. Consequently, a decision was issued on February 8, 2016 (reference 03) which found that the claimant was overpaid benefits of \$2,355.00, including a 15% penalty (\$353.25) due to fraud when she failed to report wages earned with Van Diest Supply Company from August 23, 2015 through September 26, 2015. (Department Exhibit 1). The claimant did not appeal the decision and it became final.

Also during that claim year, claimant’s administrative records establish that another decision was issued on November 17, 2015 (reference 02) which found that the claimant was overpaid unemployment insurance benefits of \$1,594.17 because of a decision which disqualified her from receiving benefits due to her discharge from employment with Van Diest Supply Co. That

was not a fraud overpayment decision like the February 8, 2016 decision was. That decision was not appealed either.

The claimant then established a claim with an effective date of April 19, 2020. On or about February 12, 2020, claimant's tax refund was seized and paid to IWD regarding claimant's unpaid balances owed to IWD. See Exhibit A. On March 1, 2020, a payment in the amount of \$2,608.07 was applied to claimant's unpaid balances due and owing to IWD. This has been the only payment made towards the debts owed by the claimant to IWD. Claimant's administrative records establish that this payment was applied towards the debt owed from the November 17, 2015 (reference 03) overpayment decision and a portion of the payment was applied to the 15% penalty for the February 8, 2016 (reference 03) decision.

To date, the current outstanding balance owed on the February 8, 2016 (reference 03) decision is \$1,594.17 plus \$120.44 of the 15% penalty that was imposed, for a total of \$1,714.61 still currently due and owing due to fraud.

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 fraud overpayment. Benefits are denied at this time and until the balance owed, (including interest, penalties, and lien fees) is paid in full, and provided the claimant is otherwise eligible.

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

4. Misrepresentation.

- a. 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.

IWD established an overpayment and imposed a penalty due to misrepresentation. See Exhibit 1. The claimant did not appeal the decision. The decision is final at this time. Therefore, the administrative law judge concludes the claimant has an established overpayment derived from fraud/misrepresentation.

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.

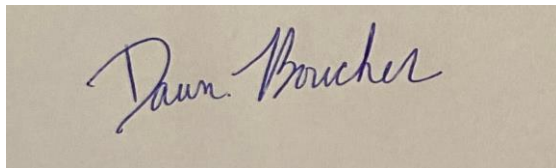
Based on the evidence presented, the administrative law judge concludes the claimant currently owes a balance of \$1,714.61 due to a decision issued on February 8, 2016 which found that the claimant was overpaid benefits and engaged in misrepresentation pursuant to Iowa Code § 96.16(4). Because this unpaid fraud overpayment balance remains unpaid, the claimant is not eligible for benefits at this time.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify 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 under the program.**

Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The April 27, 2020 (reference 02) unemployment insurance 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 penalties, interest, and lien fees, and provided claimant is otherwise eligible.

A handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive, flowing style.

Dawn Boucher
Administrative Law Judge

May 21, 2020
Decision Dated and Mailed

db/mh