

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

CLINT M HIATT
Claimant

APPEAL 22A-UI-17500-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/12/20
Claimant: Appellant (3)**

Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 96.16(4) – Offenses and Misrepresentation

STATEMENT OF THE CASE:

Claimant filed an appeal from the September 21, 2022 (reference 07) unemployment insurance decision that found claimant was overpaid Lost Wage Assistance Program (LWAP) benefits of \$1,500.00 between July 26, 2020 through September 5, 2020 because claimant incorrectly reported his wages. The decision also imposed an administrative penalty due to fraud. The parties were properly notified of the hearing. A telephone hearing was held on November 1, 2022. Claimant participated. Iowa Workforce Development (IWD) participated through Kendra Mills, Investigator. Department's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant was overpaid LWAP benefits.
Whether a penalty was properly imposed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed an initial claim for benefits effective April 12, 2020. Claimant filed ongoing weekly claims for the six-week period between July 26, 2020 and September 5, 2020 and received unemployment insurance (UI) and LWAP benefits each week.

On September 21, 2022, IWD issued a decision (reference 04) that found claimant was not eligible for UI benefits for five of the six weeks between July 26, 2020 and September 5, 2020 due to excessive earnings. Claimant appealed the decision. On appeal, an administrative law judge determined that claimant was not entitled to UI benefits for all six weeks between July 26, 2020 and September 5, 2020 due to excessive wages. (See appeal 22A-UI-17497-AW-T) The appeal decision remains in effect.

Claimant received LWAP benefits of \$1,800.00 for the six-week period between July 26, 2020 and September 5, 2020.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.3(7) states:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The decision that denied claimant UI benefits remains in effect. Because claimant is not eligible for UI benefits, claimant is also not eligible for LWAP benefits. Therefore, claimant has received LWAP benefits to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid LWAP benefits in the amount of \$1,800.00 for the six-week period between July 26, 2020 and September 5, 2020. Those benefits must be recovered in accordance with Iowa law.

The next issue to be determined is whether an administrative penalty due to fraud was properly imposed. For the reasons that follow, the administrative law judge concludes:

Title 44 of the Code of Federal Regulations section 206.116(b) provides: An applicant must return funds to FEMA and/or the State (when funds are provided by the State) when FEMA and/or the State determines that the assistance was provided erroneously, that the applicant spent the funds inappropriately, or that the applicant obtained the assistance through fraudulent means.

Title 44 of the Code of Federal Regulations governing the Federal Emergency Management Agency's Federal Disaster Assistance Program does not authorize the imposition of an administrative penalty for fraud.

Therefore, the administrative penalty for fraud was not properly imposed.

DECISION:

The September 21, 2022 (reference 07) unemployment insurance decision is MODIFIED IN FAVOR OF RESPONDENT. Claimant was overpaid LWAP benefits in the amount of \$1,800.00, which must be repaid. No administrative penalty for fraud shall be imposed.



Adrienne C. Williamson
Administrative Law Judge

November 15, 2022
Decision Dated and Mailed

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NOTE TO CLAIMANT: This decision determines you have been overpaid benefits under the CARES Act. If you disagree with this decision, you may file an appeal following the instructions below. Additionally, instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

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
4th 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.