

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

RACHEL L GILMORE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT
INTEGRITY BUREAU**

**APPEAL 23A-UI-05929-DZ-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/18/22
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Rachel L. Gilmore, the claimant/appellant, filed an appeal from the Iowa Workforce Development June 6, 2023 (reference 07) unemployment insurance (UI) decision. The decision concluded that IWD overpaid Ms. Gilmore REGULAR (state) UI benefits in the total gross amount of \$456.00 for the week of January 22-28, 2023 because the May 12, 2023 (reference 04) UI decision had found her not eligible for UI benefits for this week because she did not meet the reemployment activities requirement this week. The Iowa Department of Inspections and Appeals UI Appeals Bureau mailed a notice of hearing to Ms. Gilmore and IWD. The undersigned administrative law judge held a telephone hearing on June 29, 2023. The undersigned heard Appeals 23A-UI-05925-DZ-T, 23A-UI-05926-DZ-T, 23A-UI-05927-DZ-T, 23A-UI-05928-DZ-T, 23A-UI-05929-DZ-T, and 23A-UI-05930-DZ-T together and created one hearing record. Ms. Gilmore participated personally. IWD did not participate in the hearing. The undersigned took official notice of the administrative record.

ISSUE:

Did IWD overpaid Ms. Gilmore REGULAR (state) UI benefits for the week of January 22-28, 2023?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Gilmore filed an initial claim for REGULAR (state) UI benefits effective December 18, 2022. IWD set her weekly UI benefit amount at \$456.00. In relevant part, Ms. Gilmore filed a weekly UI claim for the week of January 22-28, 2023. Based on the wages she reported when she filed her weekly UI claims, IWD sent Ms. Gilmore REGULAR (state) UI benefits of \$456.00 for this week.

After IWD had already sent her the money, IWD mailed Ms. Gilmore a May 12, 2023 (reference 04) UI decision finding her not eligible for REGULAR (state) UI benefits for this week because she did not meet the reemployment activities requirement this week. Ms. Gilmore appealed this decision. The Administrative Law Judge Decision in Appeal 23A-UI-05926-DZ-T concluded that Ms. Gilmore did not file her appeal of the reference 04 UI decision on time and affirmed the reference 04 UI decision. This means Ms. Gilmore is not eligible for REGULAR (state) UI benefits for the week of January 22-28, 2023.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes IWD overpaid Ms. Gilmore REGULAR (state) UI benefits in the gross amount of \$456.00 for the week of January 22-28, 2023.

Iowa Code §96.3(7) provides, in pertinent part:

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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

IWD sent Ms. Gilmore REGULAR (state) UI benefits in the total gross amount of \$456.00 for the week of January 22-28, 2023. But she is not eligible to receive UI benefits for this week because of the May 12, 2023 (reference 04) UI decision, which was affirmed by the Administrative Law Judge Decision in Appeal 23A-UI-05926-DZ-T. Since IWD sent Ms. Gilmore UI benefits but she is not eligible for these benefits, IWD overpaid Ms. Gilmore and she is required to repay these benefits to IWD.

DECISION:

The June 6, 2023 (reference 07) UI decision is AFFIRMED. IWD overpaid Ms. Gilmore REGULAR (state) UI benefits in the total gross amount of \$456.00 for the week of January 22-28, 2023. Ms. Gilmore is required to repay these benefits.



Daniel Zeno
Administrative Law Judge

June 30, 2023
Decision Dated and Mailed

r/s

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 adquiriera 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.