

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAVID M WILLIAMS**  
Claimant

**APPEAL 18A-UI-09662-DB**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 07/30/17  
Claimant: Appellant (1)**

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Iowa Code § 96.3(7) – Overpayment of Benefits  
Iowa Code § 96.16(4) – Offenses and Misrepresentation  
20 CFR 617 – Trade Readjustment Allowance  
19 USC §§ 2271-2331 – Trade Readjustment Allowance  
Iowa Admin. Code r. 871-25.1 – Misrepresentation & Fraud

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the September 10, 2018 (reference 05) Iowa Workforce Development (“IWD”) unemployment insurance decision that found claimant was overpaid trade readjustment allowance (“TRA”) benefits because claimant failed to attend classes as a full-time student to be eligible for benefits. The overpayment amount determined was \$13,872.00, plus IWD imposed a 15% administrative penalty due to misrepresentation. The parties were properly notified of the hearing. The claimant requested an in-person hearing. The in-person hearing was held on November 13, 2018 in Des Moines, Iowa. The claimant, David M. Williams, did not participate. Kasandara Ellenwood and Janae Carter participated as witnesses on behalf of IWD. IWD Exhibits A through P were admitted. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

**ISSUES:**

Did IWD correctly determine that claimant was overpaid TRA benefits and was the overpayment amount correctly calculated?

Did IWD properly impose a penalty based upon claimant’s misrepresentation?

**FINDINGS OF FACT:**

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

The facts in this matter are undisputed. The claimant filed a claim for unemployment insurance benefits with an effective date of July 30, 2017. Claimant was determined to be eligible for TRA benefits. IWD conducted an audit and discovered that claimant was not enrolled in classes as a full-time student from February 26, 2017 through May 12, 2018, as was required of him in order to receive TRA weekly-benefit payments. Claimant did not have a waiver that exempted him from having to be enrolled and participating in class as a full-time student during this period of time.

When claimant received his TRA allowance decision letter, he was made aware that he needed to enroll and attend classes as a full-time student in order to continue to be eligible for TRA benefits. Claimant had enrolled at Kirkwood Community College during the spring semester of 2017, the fall semester of 2017 and the spring semester of 2018. Full-time student status was 12 credit hours at Kirkwood Community College during the time he was receiving TRA benefits. Claimant's TRA weekly-benefit amount was \$408.00.

Claimant dropped classes on February 27, 2017; March 3, 2017; March 9, 2017; March 20, 2017; August 7, 2017; October 31, 2017; and March 28, 2018. See Exhibit P. When claimant dropped classes, he was no longer at full-time student status.

Claimant received his full TRA weekly-benefit amount for the following weeks ending March 4, 2017; March 11, 2017; March 18, 2017; March 25, 2017; April 1, 2017; April 8, 2017; April 15, 2017; April 22, 2017; April 29, 2017; May 6, 2017; May 13, 2017; May 20, 2017; July 8, 2017; July 15, 2017; July 22, 2017; July 29, 2017; August 5, 2017; August 12, 2017; August 19, 2017; November 4, 2017; November 11, 2017; November 18, 2017; November 25, 2017; December 2, 2017; December 9, 2017; December 16, 2017; December 23, 2017; March 31, 2018; April 7, 2018; April 14, 2018; April 21, 2018; April 28, 2018; May 5, 2018 and May 12, 2018. He was not eligible for benefits due to his failure to be a full-time student. See Exhibit C.

Claimant filed weekly-continued claims for each of the weeks listed above. See Exhibit E. Claimant knew that he was required to be attending classes as a full-time student in order to be eligible for TRA benefits.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes IWD correctly calculated the claimant's overpayment of benefits and correctly imposed a 15% penalty due to claimant's misrepresentation.

As a condition to entitlement to TRA payments, all individuals must actually be participating in a training program approved under § 617.22(a) for each week, and for all weeks beginning on and after November 21, 1988. 20 C.F.R. § 617.19(a)(1)(ii). This training requirement can be waived in certain circumstances. *Id.* However, it was not waived in the claimant's case and the claimant was aware that it was not waived in his case.

Iowa Code section 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.

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, in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under this chapter or 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.
  - b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph "a" and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

Iowa Admin. Code r. 871- 25.1— Definitions.

"Fraud" means the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or by the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or the department, shall not act upon it to their, or its, legal injury.

"Misrepresentation" means to give misleading or deceiving information to or omit material information; to present or represent in a manner at odds with the truth.

It is clear that the claimant received TRA benefits but was not eligible for benefits due to his failure to maintain full-time student status during the weeks listed in the findings of fact. As such, claimant is overpaid TRA benefits. Further, claimant knowingly omitted material information from IWD when he filed his weekly-continued claims for TRA benefits knowing that he was not eligible for benefits because he was not enrolled and participating in classes as a full-time student. Claimant was aware that he was not eligible for benefits if he was not enrolled and participating in classes as a full-time student when he received his initial decision letter. Claimant's intentional concealment of this material fact led him to receive an overpayment of TRA benefits.

The overpayment amount calculated by IWD is correct. The penalty of 15% of the amount of the fraudulent overpayment was correctly assessed by IWD.

**DECISION:**

The September 10, 2018 (reference 05) unemployment insurance decision is affirmed. The claimant is overpaid \$13,872.00 in TRA weekly benefits between February 26, 2017 and May 12, 2018. IWD correctly imposed the 15% penalty due to the claimant's misrepresentation.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/rvs