

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TWYLA L HULME
Claimant

APPEAL NO. 22A-UI-07932-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/29/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
Iowa Code § 96.1A(37) – Total, Partial, Temporary Unemployment
Iowa Code § 96.5(5) – Other Compensation

STATEMENT OF THE CASE:

On March 24, 2022, Twyla Hulme (claimant/appellant) appealed the Iowa Workforce Development (“IWD”) decision dated March 21, 2022 (reference 01) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$481.00 for the one-week period between March 29 and April 4, 2020 due to a failure to report wages earned.

A telephone hearing was held on May 12, 2022, pursuant to due notice. Appeal Nos. 22A-UI-07932-AD-T and 22A-UI-07933-AD-T are related and were heard together, forming a single record. Claimant participated personally. Davis Dental, P.C. was listed on the hearing notice for 22A-UI-07932-AD-T and participated by owner Dr. Scott Davis. Official notice was taken of the administrative record, including the fact-finding documents.

ISSUES:

Was the claimant overpaid unemployment insurance benefits (UI)?

Was the claimant totally, partially, or temporarily unemployed?

Did the claimant correctly report wages earned?

Is the claimant eligible for benefits based on wages earned?

FINDINGS OF FACT:

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

Claimant began working for employer in January 2016 and remains employed there. Claimant filed an original claim for UI with an effective date of March 29, 2020, due to employer temporarily ceasing operations because of the pandemic. Claimant filed weekly claims from the benefit week ending April 4, 2020 through the benefit week ending May 9, 2020. IWD later performed a cross-check of wages reported by claimant and wages actually earned for the week(s) filed. Employer

reported claimant earned wages in the amount of \$840.00 in the week ending April 4, 2020. Claimant did not earn any wages in that week. Employer reported claimant's pay for that week rather than wages earned. The amount reported was for the prior week ending March 28, 2020. Claimant's weekly benefit amount was \$481.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated March 21, 2022 (reference 01) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$481.00 for the one-week period between March 29 and April 4, 2020 due to a failure to report wages earned is REVERSED.

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 96.5(5) provides:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contributions to the plan.

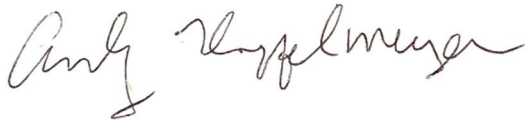
b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise

eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration, or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Claimant accurately reported that she earned no wages in the week ending April 4, 2020. As such she was eligible for benefits in the amount of \$481.00 that week, which she did receive. She was not overpaid unemployment insurance benefits.

DECISION:

The decision dated March 21, 2022 (reference 01) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$481.00 for the one-week period between March 29 and April 4, 2020 due to a failure to report wages earned is REVERSED.



Andrew B. Duffelmeyer
Administrative Law Judge

May 16, 2022
Decision Dated and Mailed

abd/abd