

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARSHAWN P HOPE
Claimant

APPEAL 22R-UI-08210-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/15/19
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Darshawn P Hope, the claimant/appellant, filed an appeal from the September 27, 2021 (reference 13) unemployment insurance (UI) decision that concluded he was overpaid Lost Wage Assistance Payments (LWAP) benefits in the gross amount of \$1,800.00. A hearing was scheduled for December 1, 2021. The parties were properly notified of the hearing. Mr. Hope did not call the toll-free number listed on the hearing notice at the time the hearing was scheduled to begin or during the fifteen-minute grace period. The department did not call the toll-free number listed on the hearing notice at the time the hearing was scheduled to begin or during the fifteen-minute grace period. Since Mr. Hope filed the appeal but did not call in, no hearing was held.

Mr. Hope appealed to the Employment Appeal Board (EAB). The EAB concluded that Mr. Hope had called in thirty minutes after the hearing was scheduled to begin, the line was disconnected, and he was not able to regain access to the system when he called in again. The EAB remanded (sent back) the matter for a new hearing.

A new telephone hearing was scheduled for May 18, 2022. The parties were properly notified about the new hearing. The hearing was held on May 18, 2022. Mr. Hope participated personally. The department did not participate in the hearing. The administrative law judge took official notice of the administrative record.

ISSUES:

Has Mr. Hope been overpaid LWAP benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Hope filed an initial claim for REGULAR (state) UI benefits effective September 15, 2019. Mr. Hope filed weekly continued claims and IWD paid him REGULAR (state) UI benefits on his claim. IWD also paid Mr. Hope LWAP benefits in the gross amount of \$1,800.00 for 6 weeks between July 26, 2020 and September 5, 2020.

The Lost Wage Assistance Program was created by presidential Executive Order 8, signed on August 8, 2020. To receive LWAP benefits in any given week, a claimant must be eligible to receive at least \$100.00 in unemployment benefits per week, and the individual must self-certify that he or she is unemployed or partially unemployed as a result of the COVID-19 pandemic.

Over one year and two months after he filed his initial claim effective September 15, 2019, and after he had already received REGULAR (state) UI benefits and LWAP benefits, IWD issued a December 1, 2020, (reference 03) UI decision finding Mr. Hope not eligible for REGULAR (state) UI benefits because of an April 14, 2020 quit from employment with employer Supreme Staffing Inc. Mr. Hope appealed the UI decision to the Iowa Workforce Development Appeals Bureau. The administrative law judge's decision in Appeal 22R-UI-08204-DZ-T affirmed the reference 03 UI decision.

REASONING AND CONCLUSIONS OF LAW:

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

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.

Since Mr. Hope is not eligible for REGULAR (state) UI benefits, he is also not eligible for LWAP benefits. Mr. Hope has been overpaid LWAP benefits in the gross amount of \$1,800.00 for 6 weeks between July 26, 2020 and September 5, 2020, which should be repaid.

DECISION:

The September 27, 2021 (reference 13) UI decision is AFFIRMED. Mr. Hope has been overpaid LWAP benefits in the gross amount of \$1,800.00, which must be repaid.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

June 28, 2022
Decision Dated and Mailed

dz/mh

NOTE TO MR. HOPE:

- This decision determines you have been overpaid LWAP benefits, and the administrative law judge does not have authority to waive the overpayment.
- If you disagree with this decision, you may file an appeal to the Employment Appeal Board (EAB) by following the instructions on the first page of this decision.
- **You may also request a waiver of this LWAP overpayment by filing an appeal to the EAB.**