

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

THOMAS A DESIO
Claimant

APPEAL NO. 21A-UI-19696-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/12/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On September 7, 2021, Thomas Desio (claimant/appellant) appealed the decision dated August 30, 2021 (reference 05) that concluded the claimant was overpaid Lost Wage Assistance Payments in the amount of \$1,800.00 for the six-week period between August 1 and September 5, 2020, as a result of a decision denying benefits.

A telephone hearing was held on November 23, 2021, pursuant to due notice. Claimant participated personally. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant overpaid Lost Wage Assistance Payments (LWAP)?

FINDINGS OF FACT:

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

The administrative record shows claimant received LWAP in the amount of \$300.00 per week for a total of six weeks, from the benefit week ending August 1, 2020 and continuing through the benefit week ending September 5, 2020. The total amount of LWAP paid during that period is \$1,800.00.

Claimant was subsequently determined to be ineligible for benefits during that period in a decision dated October 19, 2020. That decision remains in force. See 21A-UI-19693-AD-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated August 30, 2021 (reference 05) that concluded the claimant was overpaid Lost Wage Assistance Payments in the amount of \$1,800.00 for the

six-week period between August 1 and September 5, 2020, as a result of a decision denying benefits is AFFIRMED.

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.

The Lost Wage Assistance Program was created by Executive Order 8, signed by President Trump on August 8, 2020. To receive LWAP 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.

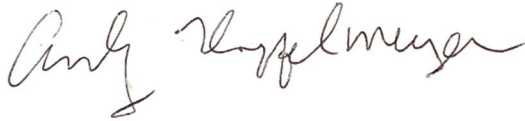
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Claimant was subsequently determined to be ineligible for benefits during that period in a decision dated October 19, 2020. That decision remains in force. See 21A-UI-19693-AD-T.

Because the claimant was ineligible for regular unemployment insurance benefits he was also ineligible for LWAP. Claimant has therefore been overpaid LWAP in the amount of \$1,800.00.

DECISION:

The decision dated August 30, 2021 (reference 05) that concluded the claimant was overpaid Lost Wage Assistance Payments in the amount of \$1,800.00 for the six-week period between August 1 and September 5, 2020, as a result of a decision denying benefits is AFFIRMED.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

December 30, 2021
Decision Dated and Mailed

abd/kmj

Note to Claimant:

If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If this decision determines you have been overpaid federal CARES Act benefits you may request a waiver of the overpayment. Instructions for requesting a waiver 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.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.