

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**CARRIE WEIGEL**

Claimant

and

**IA DEPT OF HUMAN SVCS AREA & CO**

Employer

**HEARING NUMBER: 19BUI-07921**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

**A REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION: 96.3-7, 96.3-8**

**DECISION**

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **MODIFIES THE DECISION IN FAVOR OF THE CLAIMANT** as set forth below.

**FINDINGS OF FACT:**

The Claimant lost her job with the Iowa Department of Human Services in 2015. She filed a claim for unemployment benefits with an original claim date of December 31, **2017**. During the **2017** claim year she collected 11 weeks of benefits, at the rate of \$435 per week for a total of \$4,785. The benefits were collected, although not in every week, from December 31, 2017 through December 29, 2018. Meanwhile the Claimant grieved the separation and on March 30, 2018 an arbitrator awarded backpay. The backpay was awarded from November 22, 2015 through February 22, 2018. Of the \$4,785 in benefits collected by the Claimant in her **2017** claim year, \$3,045 was paid during the 7 weeks between December 31, 2017 (the start of 2017 claim year) and February 22, 2018 (the end of the backpay period).

The parties entered into a backpay agreement on October 2, 2019. On October 7, 2019 the Employer transferred the amount of \$1,724 as an offset for the overpayment occurring between 12/31/17 through 12/29/18. This sum was transmitted electronically to Iowa Workforce to **partially** offset the overpayment resulting from benefits paid

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during the period that the **2017** claim year overlapped the backpay period. As a result, the overpayments due for this claim year have been reduced by \$1, 724. Since the Claimant collected \$3,045 in benefits during the period when the **2017** claim year overlapped the backpay period, and since the employer only offset \$1,724 of the overpayment, the Claimant is responsible for the difference.

**The Claimant has been overpaid \$1,321.**

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

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7.

Iowa Code section 96.3(8) provides:

Back pay. If an individual receives benefits for a period of unemployment and subsequently receives a payment for the same period from the individual's employer in the form of or in lieu of back pay, the benefits shall be recovered. The department, in its discretion, may reach an agreement with the individual and the employer to allow the employer to deduct the amount of the benefits from the back pay and remit a sum equal to that amount to the unemployment compensation fund and the balance to the individual, or may recover the amount of the benefits either by having a sum equal to that amount deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to that amount. If an agreement is reached to allow the employer to deduct the amount of benefits from the back pay and remit that amount to the fund, the department shall not charge that amount to the employer's account under section 96.7.

In this case, the claimant received benefits for which she subsequently was deemed ineligible because of receiving back pay from the employer for the same period. **However**, on October 7, 2019 the Employer transmitted a **portion** of the overpayment to the State rather than remit those funds to the Claimant and have her pay the overpayment. As a result, the outstanding overpayment not recovered is \$1,321.00 (one thousand three hundred and twenty-one).

The overpayment is owed is \$1,321.

#### **DECISION:**

The administrative law judge's decision dated November 1, 2019 is **MODIFIED IN FAVOR OF THE CLAIMANT**. The Employment Appeal Board concludes that the overpayment resulting from the payment of backpay during a period overlapping the 2017 claim year has been partially been recovered when the Employer paid \$1,724 on October 7, 2019. The remaining balance is \$1,321. Accordingly, **THE OVERPAYMENT IS OWED IS \$1,321**.

We caution the Claimant that our decision is limited to the effect of the award of backpay on the 2017 claim year. It is possible that she may owe additional overpayment based on benefits collected in other claim years, and/or based on other disqualifications. Our holding is that the *backpay award* has caused an overpayment of \$1,321 for the claim she filed with an original claim date of *December 31,*

2017.

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**Explanation of three backpay overpayment decisions:** We have today issued three decisions. There are three because the Claimant's award of backpay overlaps three separate periods of time during which she also collected unemployment benefits. For the original claim filed on October 25, 2015 we have held that the Claimant owes no overpayment. For the original claim filed on November 6, 2016 we have held that the Claimant owes no overpayment. For the original claim filed on December 31, 2017 we have held that the Claimant owes a reduced overpayment of \$1,321.

The overall effect of the three decisions is to reduce the Claimant's overpayment from \$16,373 to \$1,321 (one thousand three hundred and twenty-one).

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Kim D. Schmett

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James M. Strohman

RRA/fnv