

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

**DEREK AUSTIN
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7210 HILLANDALE RD
DAVENPORT IA 52806 1036**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-21190-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REQUEST TO REOPEN AND APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party:

(1) Appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.
That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(2) **OR YOU MAY** Make a request to reopen the hearing to the Appeals Bureau directly to:

***Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax: (515) 478-3528***

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>

Employer UI Handbook: <https://www.iowaworkforcedevelopment.gov/employer-handbook>

Report UI fraud: <https://www.iowaworkforcedevelopment.gov/report-fraud>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEREK AUSTIN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO. 21A-UI-21190-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/19/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On September 22, 2021, Derek Austin (claimant/appellant) appealed the decision dated September 20, 2021 (reference 04) that concluded the claimant was overpaid Lost Wage Assistance Payments (LWAP) in the amount of \$1,800.00 for the six-week period ending September 5, 2020 as a result of a decision denying benefits.

A telephone hearing was held on November 19, 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 this period was \$1,800.00.

Claimant was subsequently determined to be disqualified from benefits during that period in a decision dated November 10, 2020. That decision has now been modified to find claimant is not disqualified from benefits but remains ineligible for benefits during the weeks filed. See 21A-UI-21187-AD-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated September 20, 2021 (reference 04) that concluded the claimant was overpaid Lost Wage Assistance Payments (LWAP) in the amount of

\$1,800.00 for the six-week period ending 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.

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 this period was \$1,800.00.

Claimant was subsequently determined to be disqualified from benefits during that period in a decision dated November 10, 2020. That decision has now been modified to find claimant is not disqualified from benefits but remains ineligible for benefits during the weeks filed. See 21A-UI-21187-AD-T.

Because claimant was ineligible for benefits during the period in question he was also ineligible for LWAP during that period. He has therefore been overpaid LWAP in the amount \$1,800.00.

DECISION:

The decision dated September 20, 2021 (reference 04) that concluded the claimant was overpaid Lost Wage Assistance Payments (LWAP) in the amount of \$1,800.00 for the six-week period ending 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 1, 2021
Decision Dated and Mailed

abd/abd

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>.