

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CARISSA MARSHALL**  
Claimant

**APPEAL 24A-UI-02830-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/22/20  
Claimant: Appellant (1)**

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Iowa Code § 96.3(7) – Overpayment of Benefits

**STATEMENT OF THE CASE:**

On March 11, 2024, claimant Carissa Marshall filed an appeal from the March 6, 2024 (reference 07) unemployment insurance decision that found Marshall was overpaid Lost Wages Assistance program (LWAP) benefits. A telephonic hearing was held at 10:00 a.m. on Tuesday, June 11, 2024. Appeal numbers 24A-UI-02828-LJ-T, 24A-UI-02829-LJ-T, 24A-UI-02830-LJ-T, and 24A-UI-05578-LJ-T were heard together and created one record. Carissa Marshall participated and was represented by attorney Gayla Harrison. Iowa Workforce Development (“IWD”) participated through investigator Debbie Rumbaugh and attorney Jeffrey Koncsol represented the agency.

IWD Exhibits 1, 2, 3, 4, 5, 6, 8, and 9 were received and admitted into the record without objection.<sup>1</sup> The administrative law judge took official notice of the administrative record to incorporate Marshall’s weekly claim records in DBRO and KCCO; to review Marshall’s base period wages in WAGE-A; to review the payments issued to Marshall as documented in KPY1 and KPYX; to review the NMRO system, documenting all of the decisions issued to Marshall during her March 22, 2020 claim year; and to review the Alfresco document repository to retrieve and read the April 21, 2022 (reference 01) and the April 21, 2022 (reference 02) unemployment insurance decisions and the appeal decision 23A-UI-06762-DZ-T.

**ISSUES:**

Whether claimant was overpaid LWAP benefits.

**FINDINGS OF FACT:**

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

Marshall filed an initial claim for benefits effective March 22, 2020. After opening her claim, she filed consecutive weekly claims from the week ending March 28, 2020 until the week ending August 1, 2020. Marshall then had a break in her reporting status. She resumed claiming benefits in November, establishing an additional claim date of November 22, 2020. Marshall

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<sup>1</sup> IWD Exhibits 7, 10, and 11 were excluded from the record.

filed one weekly claims from the week ending August 1, 2020. For that week, she received both regular unemployment (UI) and LWAP benefits.

On March 6, 2024, IWD issued a decision (reference 05) that found Marshall was overpaid \$9,527.00 in regular UI benefits from March 22, 2020 through May 23, 2023 because she failed to report wages earned with two employers. The investigator who issued that decision subsequently amended that decision, issuing the June 5, 2024 (reference 08) decision determining Marshall was overpaid \$9,527.00 in regular UI benefits from March 22, 2020 through December 26, 2020 because she failed to report wages earned with two employers. Both the initial and the amended decisions assessed an administrative penalty for fraud. The amended decision has been modified in favor of Marshall on appeal. (See appeal number 24A-UI-05578-LJ-T) The administrative law judge found that while she was overpaid UI benefits, Marshall did not willfully or knowingly misrepresent her wages earned when filing claims. (24A-UI-05578) The findings of that decision are incorporated into this decision by reference.

Marshall received LWAP benefits in the amount of \$300.00 for the one-week period between July 26, 2020 and August 1, 2020.

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

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

Iowa Code section 96.3(7) states:

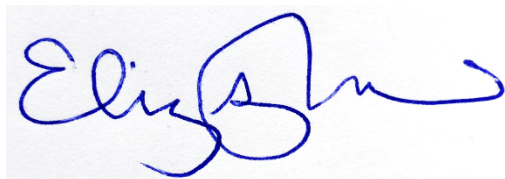
*7. Recovery of overpayment of benefits.*

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.

The decision that denied Marshall UI benefits remains in effect. Because Marshall is not eligible for UI benefits, she is also not eligible for LWAP benefits. Therefore, claimant has been overpaid LWAP benefits in the amount of \$300.00. Those benefits must be recovered in accordance with Iowa law.

**DECISION:**

The March 6, 2024 (reference 07) unemployment insurance decision is AFFIRMED. Claimant Carissa Marshall was overpaid LWAP benefits in the amount of \$300.00, which must be repaid.



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Elizabeth A. Johnson  
Administrative Law Judge

June 17, 2024  
Decision Dated and Mailed

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**NOTE TO CLAIMANT:** This decision determines you have been overpaid LWAP benefits. If you disagree with this decision, you may file an appeal by following the instructions below. Additionally, instructions for requesting a waiver of this overpayment 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.

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: eab.iowa.gov**

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:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or 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.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

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

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.