

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

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**DELANEY BERKE**  
Claimant

**APPEAL 23A-UI-07594-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/15/23  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

On August 3, 2023, claimant Delaney Berke appealed the July 31, 2023, (reference 09) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$965.00 for the two-week period ending February 11, 2023, as a result of a disqualification decision. A telephone hearing was scheduled and held at 10:00 a.m. on Monday, August 21, 2023, pursuant to due notice. Claimant Delaney Berke personally participated. Iowa Workforce Development did not appear or participate. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Has the claimant been overpaid unemployment insurance benefits for the period in question?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant opened a claim for unemployment insurance benefits with an effective date of January 15, 2023. Their weekly benefit amount is \$551.00. Claimant received benefits for two weeks: the week ending January 21, 2023; and the week ending February 11, 2023.

On March 21, 2023, IWD issued the reference 08 decision finding claimant was overpaid \$137.00 in regular unemployment insurance benefits due to a failure to correctly report wages. Claimant paid that overpayment balance on August 4, 2023.

On July 31, 2023, IWD issued the reference 09 decision finding claimant was overpaid \$965.00 in regular unemployment insurance benefits. This overpayment issue in this case was created by the disqualification decision that has now been modified in favor of the claimant. See 23A-UI-07593-LJ-T. Claimant has been found eligible for the benefits they received.

The administrative record indicates claimant made a payment of \$120.00 toward the overpayment balance on August 28, 2023.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes claimant has not been overpaid benefits for the period in question.

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.

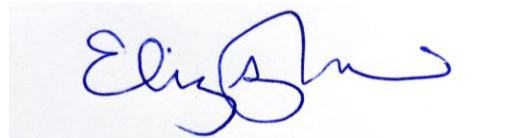
b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The decision that denied benefits has been modified in claimant's favor, finding claimant eligible for benefits. Therefore, claimant is now eligible for the benefits received since the effective date of the claim (provided they are otherwise eligible for benefits). The administrative law judge concludes that the claimant has not been overpaid unemployment insurance benefits in the amount of \$965.00 pursuant to Iowa Code § 96.3(7) as the disqualification decision that created the overpayment decision has been reversed.

**NOTE:** This decision does not affect the reference 08 determination that claimant was overpaid based on a failure to properly report wages.

**DECISION:**

The July 31, 2023, (reference 09) unemployment insurance decision is reversed. The claimant has not been overpaid unemployment insurance benefits in the amount of \$965.00.



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Elizabeth A. Johnson  
Administrative Law Judge

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September 1, 2023  
Decision Dated and Mailed

rvs

**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:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**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:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**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.