

IOWA DEPARTMENT OF INSPECTIONS AND
APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 14IWDUI258
14IWDUI259
OC: 02-23-14
Claimant: Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

ANGELA S. JOHANNSEN
5230 THACKERY DRIVE
AMES, IA 50014

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319**.

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.

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
QUALITY CONTROL
MARY PIAGENTINI
1000 E. GRAND
DES MOINES IA 50309

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.

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 the department. 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.

JONI BENSON - IWD

(Administrative Law Judge)

October 3, 2014

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Angela Johannsen filed an appeal from two decisions issued by Iowa Workforce Development (the Department). The first, dated August 14, 2014 (Reference 01), notified Johannsen that she was not eligible to claim her three children as dependents on her unemployment insurance claim. The second, dated August 18, 2014 (Reference 02) notified Johannsen that she had been overpaid unemployment benefits in the amount of \$353 for the 18-week period between February 23, 2014 and July 26, 2014 based on the fact that she had improperly claimed her children as dependent.

The cases were transmitted from Workforce Development to the Department of Inspections and Appeals on August 28, 2014 to schedule a contested case hearing. Notices of Telephone Hearings were mailed to all parties on September 16, 2014.

The matter came on for hearing on October 2, 2014, before Administrative Law Judge Kerry Anderson. At the time of hearing, Angela Johannsen appeared and was self-represented. Mary Piagentini appeared for the Department. Jodi Douglas of the Department also appeared, but did not participate.

The contents of the administrative files were admitted into evidence as were Exhibits 1-5 submitted by Ms. Piagentini.

ISSUES

Whether the Department correctly determined that the Claimant was ineligible to claim her children as dependents on her unemployment insurance claim.

Whether the Department correctly determined the claimant was overpaid unemployment insurance benefits and, if so, whether the amount of overpayment was correctly calculated.

FINDINGS OF FACT

Claimant Angela Johannsen filed a claim for unemployment compensation benefits with an effective date of February 23, 2014. She named, as dependents, her children, Dakota, Justin and Skylar. Ms. Johannsen also stated on her application that her spouse had not filed a claim for unemployment insurance benefits within the past 12 months. (Exh. 2). As a result, Ms. Johannsen began receiving during the week ending March 1, 2014 which were calculated based on the three dependents she claimed. (Exh. 5; Piagentini testimony)

Subsequently, Ms. Johannsen's claim was selected for a random quality control audit. During the review, it was determined that her spouse, Jeremy Johannsen, had, in fact, filed a claim for unemployment benefits with an effective date of September 29, 2013. Mr. Johannsen had also claimed Dakota, Justin and Skylar as dependents. (Exh. 3)

The parties agree that Mr. Johannsen filed his claim as the result of a federal government shutdown which resulted in the furlough of many federal employees. The evidence is further uncontested that Mr. Johannsen did not claim any benefits even though he had a valid unemployment claim that did not expire until September 28, 2014. (Exh. 4)

On August 14, 2014, the Department issued a decision addressed to Angela Johannsen notifying her that she was not eligible to claim her children as dependents on her unemployment insurance claim because her spouse had already claimed them as dependents on his claim. (Exh. 4). Additionally, the Department recalculated the amount of benefits Ms. Johannsen would have been eligible for had she not claimed the children as dependents. Thereafter, on August 18, 2014, the Department issued a decision notifying Ms. Johannsen she was overpaid benefits in the amount of \$353 for the period between February 23, 2014 and July 26, 2014 based on the reduction in the number of dependents she should have been claiming. (Exh. 5)

At hearing the evidence was clear that, while Mr. Johannsen opened a claim for benefits, he never made claim for a weekly benefit and never received any benefits. (Piagentini testimony; Johannsen testimony; Exh. 4)

REASONING AND CONCLUSIONS OF LAW

A. Entitlement to deductions:

Iowa Code section 96.6 provides that claims for unemployment insurance benefits shall be made in accordance with the rules promulgated the Iowa Workforce Development. The Department's rules concerning the procedures for filing unemployment claims are found in the Iowa Administrative Code at 871 IAC 24.2.

The rules provide that, after being separated from work, an individual may register for work and file a claim for benefits. To file a claim, an individual must provide certain information including the number, name and relationship of any dependent claimed. 871 IAC 24.2(8). The rules define a dependent to mean "an individual who has been or could have been claimed for the preceding tax year on the claimant's income tax return or will be claimed for the current income tax year." *Id.* The Department's rules specifically state that "[t]he same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years." *Id.*

Based on the rule set out above, it is clear that both Mr. Johannsen and Mrs. Johannsen were not entitled to claim their children on their unemployment claims. In this regard, the Department is correct. However, nothing in the rule requires that the claim filed first in time is the claim which is entitled to the dependents at issue.

The purpose of the rule in question is to prevent a windfall by allowing multiple persons to receive benefits calculated by claiming the same dependents. Here, Mr. Johannsen filed the first claim for benefits claiming the children as dependents. That claim remained valid through September 28, 2014, but Mr. Johannsen never made a claim for or received any weekly benefits during that year. Ms. Johannsen, on the other hand, filed a claim that was effective February 23, 2014 and made weekly claims for and received benefits for several weeks. Thus, the Johannsens received no windfall by each claiming their children on their unemployment claims. Benefits were paid based on a benefit calculation using the three Johannsen children as dependents only once. It therefore makes more sense to notify Mr. Johannsen that he incorrectly claimed the children as dependents rather than to penalize the family for Mrs. Johannsen having done so and there is nothing in the rules to prevent that outcome.

Based on the following, the Department's decision that Angela Johannsen was unentitled to claim her children as dependents should be reversed.

B. Overpayment of benefits.

Under Iowa law, if an individual receives unemployment insurance benefits for which he or she is subsequently determined to be ineligible, IWD must recover those benefits

even if the individual acted in good faith and is not otherwise at fault. IWD may recover the overpayment of benefits by requesting payment from the individual directly or by deducting the overpayment from any future benefits payable to the overpaid claimant.¹

In this case, the Department's decision that Angela Johannsen was overpaid benefits is based solely on its decision that she was not eligible to have claimed her children as dependents. Because I have reversed the decision that Ms. Johannsen is unentitled to the dependents she claimed, the overpayment decision must also be reversed.

DECISION

Iowa Workforce Development's decision dated August 14, 2014 (Reference 01) holding that Angela Johannsen was ineligible to claim her three children as dependents is REVERSED.

Iowa Workforce Development's decision dated August 18, 2014 that Ms. Johannsen was overpaid benefits is also REVERSED.

The Department shall do anything necessary, including issuing a decision that Jeremy Johannsen was ineligible to claim his children as dependents on his September 29, 2013 claim, to implement this decision.

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¹ Iowa Code § 96.3(7)(a) (2009).