

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

**Appeal Number: 13IWDUI076**  
**OC: 10/23/11 & 10/21/12**  
**Claimant: Appellant (1)**

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**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, 4<sup>TH</sup> Floor Lucas Building, Des Moines, Iowa 50319.**

**GRACE BLOOMQUIST**  
**1075 – 23<sup>RD</sup> STREET**  
**DES MOINES, IA 50311**

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**  
**INVESTIGATIONS AND RECOVERY**  
**IRMA LEWIS, INVESTIGATOR**  
**430 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

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.

JOE WALSH, IWD

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(Administrative Law Judge)

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May 2, 2013

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(Decision Dated & Mailed)

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### STATEMENT OF THE CASE

Grace Bloomquist filed an appeal from decisions issued by Iowa Workforce Development (the Department) dated July 20, 2012, reference 03; November 19, 2012, reference 04; January 4, 2013; and January 23, 2013, reference 03. In these decisions, the Department determined that Ms. Bloomquist was overpaid \$441.00 in unemployment insurance benefits for the time period between May 6, 2012 and May 19, 2012 (Focus Onesource, LLC); \$3821.00 for the weeks from May 27, 2012 and September 22, 2012 (Hope Ministries); that she was eligible to receive benefits after being released from a doctor's care on January 13, 2013; and that she was going to be denied benefits from January 13, 2013 until the end of her benefit year on October 19, 2013 because it was determined that Ms. Bloomquist made false statements concerning her unemployment benefits.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on February 11, 2013 for scheduling of a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on February 13, 2013. On April 1, 2013, a telephone appeal hearing was held before Administrative Law Judge John M. Priester. Investigator Irma Lewis represented the Department and presented testimony. Ms. Bloomquist appeared and presented testimony. Exhibits A and B were submitted by the Department and admitted into the record as evidence.

### **ISSUES**

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

Whether the Department correctly determined that the claimant was disqualified from receiving unemployment benefits based upon being medical unavailable.

Whether the Department correctly determined that an overpayment was the result of misrepresentation on the part of the claimant.

### **FINDINGS OF FACT**

In the hearing Ms. Bloomquist admitted that she made misrepresentations on the two occasions to receive unemployment benefits. She received benefits for two weeks, from May 6, 2012 to May 19, 2012 while employed at Focus Onesource LLL (\$441.00). She also received benefits for 16 weeks, from May 27, 2012 to September 22, 2012 while employed at Hope Ministries (\$3,821.00). She testified that she was misinformed by another person that the money was hers and she could claim it. She now understands that this was in error and she regrets her actions.

Ms. Bloomquist was required to come to the local IWD office to meet with Investigator Lewis to discuss her possible overpayments on November 14, 2012. She was unable to attend the meeting because she had fallen and hurt her knee. She did meet with Ms. Lewis on December 7, 2012. At that time Ms. Lewis explained that Ms. Bloomquist would be required to have a physician's statement that she was medically able to work in order to continue receiving unemployment benefits.

Ms. Bloomquist provided a form from Broadlawns Medical Center dated later that day, December 7, 2012. Dr. Matthew Spitzenberger provided the bare-bones report found on B-3.

On December 12, 2012, Ms. Lewis informed Ms. Bloomquist that this form was not satisfactory to the Department and Ms. Lewis instructed Ms. Bloomquist to use the IWD form that was given to her at their visit.

Ms. Bloomquist faxed the IWD forms to Ms. Lewis on January 2, 2013. This form was accompanied by a Broadlawns form that released Ms. Bloomquist to work on January 1,

2013 with restrictions.

Based upon this form the Department determined that Ms. Bloomquist was not medically available to work up to December 31, 2012 and therefore was disqualified from receiving benefits during that period.

Because the Department determined that the overpayments were a result of misrepresentation, the Department imposed an administrative penalty on Ms. Bloomquist preventing her from receiving benefits until after October 19, 2013. The administrative penalty was based solely on the Department's finding in this investigation that the \$441 and \$3,821.00 overpayments were a result of misrepresentation.

At hearing, the Appellant conceded that she was overpaid and took responsibility for her actions. She explained that in the medical issue she believes that Ms. Lewis bullied her and was not helpful in resolving the issues.

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

Under Iowa law, if an individual receives unemployment insurance benefits for which he or she is subsequently determined to be ineligible, the Department must recover those benefits even if the individual acted in good faith and is not otherwise at fault. The Department 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.<sup>1</sup> If a claimant is overpaid benefits as a result of misrepresentation, the Department may – in addition to recovering the overpayment through direct payment or deduction from future benefits – file a lien for the overpayment amount in favor of the state on the claimant's real or personal property and rights to property.<sup>2</sup>

#### **A. Overpayment**

There is no question from the evidence in the record that the overpayment was the result of Ms. Bloomquist's misrepresentation that she was not working, when in fact she was working.

The Department correctly calculated Ms. Bloomquist's overpayment at \$441 and \$3,821.00.

#### **B. Misrepresentation**

The Appellant conceded at hearing that the overpayment was the result of misrepresentation although she was acting on the advice of someone else. There were two different instances of overpayment. According to the Department's regulations a disqualification for the remainder of Ms. Bloomquist's benefit year is found to be correct.

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<sup>1</sup> Iowa Code § 96.3(7)(a) (2009).

<sup>2</sup> 871 Iowa Administrative Code (IAC) 96.16(4).

C. Medically Available

Ms. Bloomquist believes that she was medically able to work the entire time. This may be the case; however she did not get the form that states this to the Department until January 2, 2013. The Department cannot approve benefits until the form is received that verifies a person receiving benefits are medically able to work. This did not occur until January 2, 2013.

**DECISION**

The Department's decisions dated July 20, 2013; November 19, 2012; January 4, 2013 and January 23, 2013 are AFFIRMED. The claimant was overpaid benefits in the amount of \$441 and 3,821.00, and the overpayment was the result of misrepresentation. The Department was correct in finding Ms. Bloomquist medically unavailable until December 31, 2012 because that was the date the physician certified that she was medically cleared to return to work.

jmp