

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FERNANDO AVALOS
Claimant

APPEAL 19A-UI-01190-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 01/20/19
Claimant: Appellant (4)

Iowa Code § 96.5(13) – Disqualification due to Outstanding Fraud Overpayment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the February 5, 2019 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that found claimant was not eligible for unemployment insurance benefits due to an outstanding fraud overpayment balance. The parties were properly notified of the hearing. A telephone hearing was held on February 26, 2019. The claimant, Fernando Avalos, participated personally. Kevan Irvine participated on behalf of IWD. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUE:

Is the claimant ineligible for benefits due to an outstanding fraud overpayment balance?

FINDINGS OF FACT:

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

The claimant filed a claim for unemployment insurance benefits with an effective date of January 1, 2017. During that claim year, a decision was issued on April 6, 2017 (reference 03) which found that the claimant was overpaid benefits of \$2,201.00, including a 15% penalty due to misrepresentation. Claimant did not appeal the decision and it became final. As of February 5, 2019, the balance has been paid in full.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(13) provides:

Overpayment resulting in disqualification. If the department finds that an individual has received benefits by reason of misrepresentation pursuant to section 96.16, such individual shall be disqualified for benefits until the balance of the benefits received by the

individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

As of February 5, 2019, claimant paid the overpayment balance due to misrepresentation. As such, benefits are allowed effective the benefit week beginning February 3, 2019, provided claimant is otherwise eligible.

DECISION:

The February 5, 2019 (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant was ineligible for benefits effective January 20, 2019 through February 2, 2019 due to an unpaid fraud overpayment balance. Claimant paid the amount due and became eligible for benefits effective February 3, 2019, provided he met all other eligibility requirements.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs