

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSHUA P MCCAULEY
Claimant

APPEAL 20A-UI-03662-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/10/19
Claimant: Appellant (1)**

Iowa Code § 96.16(4) – Offenses and Misrepresentation

STATEMENT OF THE CASE:

On April 21, 2020, Joshua McCauley (claimant/appellant) filed an appeal from the April 14, 2020 (reference 06) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was ineligible 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 May 22, 2020. The claimant participated personally. IWD Investigation and Recovery Unit elected to participate by writing only and IWD exhibits 1-3 were admitted into evidence. 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:

An investigatory audit was conducted regarding the claimant’s failure to report all wages while concurrently filing weekly continued claims for benefits. (Department’s Exhibit 1). A decision was subsequently issued on February 27, 2020, which found that the claimant was overpaid benefits of \$4,506.00, and added a 15% penalty due to fraud. (Department Exhibit 2). The claimant did not appeal the decision and it became final.

To date, the claimant has failed to pay the outstanding overpayment amount owed, including interest, penalties, and lien fees. The current outstanding balance owed is \$5,181.90 (Department Exhibit 3).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is ineligible for benefits due to an outstanding fraud overpayment. Benefits are denied at this time and continuing until the balance owed (including interest, penalties, and lien fees) is paid.

Iowa Code section 96.16(4)(a) provides:

An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

Iowa Code section 96.5(13) provides:

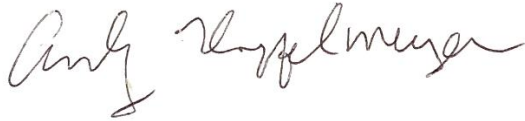
Overpayment resulting in disqualification. If the department finds that an individual has received benefits by reason of misrepresentation pursuant to section 96.16, such individual shall be disqualified for benefits until the balance of the benefits received by the individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

The administrative law judge is sympathetic to claimant and is persuaded that the overpayment was not due to fraud or misrepresentation but was due to honest mathematical errors stemming from claimant's mental impairments. However, the February 27, 2020 overpayment decision is not before this judge and it remains final at this time. The only issue before the administrative law judge here is whether the claimant is ineligible for benefits at this time due to an unpaid overpayment balance. The Department has established that there is an unpaid overpayment balance, and therefore the administrative law must find claimant is ineligible for benefits.

The judge notes claimant may still appeal the February 27, 2020 overpayment decision, although the timeliness of any such appeal would be a question to be resolved at the time of hearing. The judge also notes claimant may well be eligible for Pandemic Unemployment Assistance (PUA) benefits if he is currently out of work due to the pandemic. There is more information set forth below about PUA.

DECISION:

The April 14, 2020 (reference 06) unemployment insurance decision is affirmed. The claimant is ineligible for benefits at this time due to an unpaid fraud overpayment balance. Benefits are withheld until the claimant has paid the unpaid fraud overpayment balance, plus penalties, interest, and lien fees, and provided claimant is otherwise eligible.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

May 28, 2020
Decision Dated and Mailed

abd/mh

Note to Claimant:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.