

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

MELLISA HAAGE
Claimant

APPEAL 22A-UI-09679-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/29/20
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Mellisa Haage, the claimant/appellant, filed an appeal from the April 7, 2022 (reference 07) unemployment insurance (UI) decision that concluded she was overpaid Lost Wage Assistance Payments (LWAP) benefits in the gross amount of \$1,200.00. The parties were properly notified about the hearing. A telephone hearing was held on June 1, 2022. Ms. Haage participated personally. The department did not participate in the hearing. The administrative law judge took official notice of the administrative record.

ISSUES:

Has Ms. Haage been overpaid LWAP benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Haage filed an initial claim for REGULAR (state) UI benefits effective March 29, 2020. Almost four months after she filed her initial claim effective March 29, 2020, IWD issued a July 15, 2020, (reference 01) UI decision finding Ms. Haage not eligible for REGULAR (state) UI benefits as of March 29, 2020 because she was still employed with employer Manpower International Inc. for the same hours and wages as in her original contract of hire. Ms. Haage appealed that UI decision to the Iowa Workforce Development Appeals Bureau.

While Ms. Haage waited for an appeal hearing to be scheduled, she continued to file weekly UI claims and IWD paid her REGULAR (state) UI benefits on her claim. IWD also paid Ms. Haage LWAP benefits in the gross amount of \$1,200.00 (\$300.00 for each week) for 4 weeks between August 9, 2020 and September 5, 2020.

The Lost Wage Assistance Program was created by presidential Executive Order 8, signed on August 8, 2020. To receive LWAP benefits in any given week, a claimant must be eligible to receive at least \$100.00 in unemployment benefits per week, and the individual must self-certify that he or she is unemployed or partially unemployed as a result of the COVID-19 pandemic.

The appeal hearing was scheduled for August 7, 2020 and the administrative law judge's decision in Appeal 20A-UI-07364-DG-T was issued on August 17, 2020. The administrative law

judge's decision dismissed Ms. Haage's appeal because she did not give IWD Appeals a phone number at which to call her.

Almost four months after IWD issued the July 15, 2020, (reference 01) UI decision, and close to eight months she filed her initial claim effective March 29, 2020 and had already received REGULAR (state) UI benefits, IWD issued another decision, dated November 24, 2020, (reference 03). That decision found Ms. Haage not eligible for REGULAR (state) UI benefits because of an August 16, 2020 voluntary quit from employer Manpower International Inc. Ms. Haage appealed that UI decision to the Iowa Workforce Development Appeals Bureau. The appeal hearing was held on January 27, 2021. The administrative law judge's decision in Appeal 20A-UI-15687-SN-T reversed the reference 03 UI decision. Ms. Haage participated in that hearing and the administrative law judge concluded that since she had quit to take other employment, Ms. Haage was eligible for UI benefits.

Almost eight months after IWD issued the November 24, 2020, (reference 03) UI decision, and close to one year after she filed her initial claim effective March 29, 2020 and had already received REGULAR (state) UI benefits, IWD issued yet another decision, dated March 10, 2021, (reference 02). That decision found Ms. Haage not eligible for REGULAR (state) UI benefits as of May 17, 2020 because she was still employed with employer Manpower International Inc. for the same hours and wages as in her original contract of hire. Ms. Haage appealed that UI decision to the Iowa Workforce Development Appeals Bureau. The appeal hearing was held on June 2, 2021. Ms. Haage participated in that hearing and the administrative law judge's decision in Appeal 21A-UI-08064-DG-T affirmed the reference 02 UI decision.

Ms. Haage applied for Pandemic Unemployment Assistance (PUA) benefits on July 18, 2020 because she was home from work due to COVID-19 and was not allowed back to work after quarantining even though she had no symptoms. Ms. Haage applied for PUA benefits again on August 11, 2020 because her hours were reduced when her employer sent her home because she was feeling sick. Ms. Haage applied for PUA benefits again on September 24, 2020 because her child tested positive for COVID-19, she provided care for her grandchild, and her employer advised to quarantine because she was exposed to someone who had tested positive for COVID-19. On October 5, 2020, IWD issued a decision finding Ms. Haage eligible for PUA benefits as of August 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

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

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.

Ms. Haage is not eligible for LWAP benefits during the time she is not eligible for REGULAR (state) UI benefits. However, Ms. Haage is eligible for LWAP benefits during the time she is eligible for PUA benefits. That means Ms. Haage is not eligible for LWAP benefits for the week of August 9-15, 2020, and she has been overpaid LWAP benefits in the gross amount \$300.00 for that week, which should be repaid. Ms. Haage has not been overpaid LWAP benefits as of August 16, 2020 since she is eligible for LWAP benefits as of that date.

DECISION:

The April 7, 2022, (reference 07) decision is MODIFIED IN FAVOR OF THE APPELLANT, Ms. Haage. Ms. Haage has been overpaid LWAP benefits in the gross amount of \$300.00, which must be repaid.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 29, 2022
Decision Dated and Mailed

dz/mh

NOTE TO MS. HAAGE:

- This decision determines you have been overpaid LWAP benefits, and the administrative law judge does not have authority to waive the overpayment.
- If you disagree with this decision, you may file an appeal to the Employment Appeal Board (EAB) by following the instructions on the first page of this decision.
- **You may also request a waiver of this LWAP overpayment by filing an appeal to the EAB.**

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
4th 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.

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 then file a petition for judicial review in district court.

2. If no one files 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 Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> OR by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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**

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.

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 nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.