

BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

CARRIE WEIGEL

Claimant

and

IA DEPT OF HUMAN SVCS AREA & CO

Employer

HEARING NUMBER: 19BUI-07922

EMPLOYMENT APPEAL BOARD
DECISION

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.3-7, 96.3-8

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant lost her job with the Iowa Department of Human Services in 2015. She filed a claim for unemployment benefits with an original claim date of November 6, **2016**. During the **2016** claim year she collected 8 weeks of benefits, at the rate of \$447 per week, and one week at the rate of \$270, for a total of \$3,846. The benefits were collected from November 6, 2016 through January 7, 2017. Meanwhile the Claimant grieved the separation and on March 30, 2018 an arbitrator awarded backpay. The backpay was awarded from November 22, 2015 through February 22, 2018. All of the \$3,836 in benefits collected by the Claimant in her 2016 claim year was paid during the backpay period.

The parties entered into a backpay agreement on October 2, 2019. On October 7, 2019 the Employer transferred the amount of \$3,846 as an offset for the overpayment occurring between 11/6/16 through 1/7/17. This sum was transmitted electronically to Iowa Workforce to offset the overpayment resulting from benefits paid during the period that the **2016** claim year overlapped the backpay period. As a result, all overpayments due for this claim year have been paid and there is no overpayment.

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REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.3-7.

Iowa Code section 96.3(8) provides:

Back pay. If an individual receives benefits for a period of unemployment and subsequently receives a payment for the same period from the individual's employer in the form of or in lieu of back pay, the benefits shall be recovered. The department, in its discretion, may reach an agreement with the individual and the employer to allow the employer to deduct the amount of the benefits from the back pay and remit a sum equal to that amount to the unemployment compensation fund and the balance to the individual, or may recover the amount of the benefits either by having a sum equal to that amount deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to that amount. If an agreement is reached to allow the employer to deduct the amount of benefits from the back pay and remit that amount to the fund, the department shall not charge that amount to the employer's account under section 96.7.

In this case, the claimant received benefits for which she subsequently was deemed ineligible because of receiving back pay from the employer for the same period. **However**, on October 7, 2019 the Employer already transmitted the entire amount of the overpayment to the State rather than remit those funds to the Claimant and have her pay the overpayment. As a result, the outstanding overpayment not recovered is \$0.00 (zero).

No overpayment is owed.

DECISION:

The administrative law judge's decision dated November 1, 2019 is **REVERSED**. The Employment Appeal Board concludes that the overpayment resulting from the payment of backpay for a period overlapping the 2016 claim year has already been recovered when the Employer paid the entire amount on October 7, 2019. Accordingly, **NO OVERPAYMENT IS OWED**.

We caution the Claimant that our decision is limited to the effect of the award of backpay on the **2016** claim year. It is possible that she may owe an overpayment based on benefits collected in other claim years, and/or based on other disqualifications. Our holding is that the *backpay award* has caused no overpayment for the claim she filed with an original claim date of *November 6, 2016*.

Explanation of three backpay overpayment decisions: We have today issued three decisions. There are three because the Claimant's award of backpay overlaps three separate periods of time during which she also collected unemployment benefits. For the original claim filed on October 25, 2015 we have held that the Claimant owes no overpayment. For the original claim filed on November 6, 2016 we have held that the Claimant owes no overpayment. For the original claim filed on December 31, 2017 we have held that the Claimant owes a reduced overpayment of \$1,321.

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The overall effect of the three decisions is to reduce the Claimant's overpayment from \$16,373 to \$1,321 (one thousand three hundred and twenty-one).

Kim D. Schmett

James M. Strohman

RRA/fnv