

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHRAF GENDY
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 23A-UI-10989-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/14/23
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the November 21, 2023 (reference 11) unemployment insurance benefits decision that found he was overpaid unemployment insurance benefits of \$913.25 for the weeks between May 14, 2023 and June 24, 2023. This reference 11 decision had amended a previous decision dated September 26, 2023 (reference 09). Due notice was issued, and a hearing was scheduled for December 22, 2023. The claimant participated personally. Iowa Workforce Development (IWD) did not participate. Language Link provided language interpretation services to the claimant. The administrative law judge took official notice of the claimant's administrative records.

ISSUE:

Whether the claimant is overpaid benefits for the weeks between May 14, 2023 and June 24, 2023?

FINDINGS OF FACT:

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

The claimant filed an original claim for unemployment insurance benefits effective May 14, 2023. He used state and federal wages to establish his weekly and maximum benefit amount. He filed weekly-continued claims for the weeks between May 14, 2023 and June 24, 2023, reporting some wages every single week.

Claimant was initially paid unemployment insurance benefits for the week-ending May 27, 2023 in the gross amount of \$334.10, (\$284.75 was issued to the claimant) and \$50.25 was paid on the claimant's behalf as federal (\$33.50) and state (\$16.75) taxes. However, this payment was then cancelled so the claimant did not receive the net funds; but Iowa Workforce Development still paid the federal and state taxes on his behalf.

For the weeks between June 4, 2023 and June 24, 2023, the claimant was paid a gross amount of \$863.00. Federal and state taxes were withheld for those weeks in the amount of \$86.30 (federal taxes) and \$43.15 (state taxes). Claimant received two payments by check from Iowa

Workforce Development, one in the amount of \$440.30 and one in the amount of \$293.25. These checks were for his net amount of benefits for the weeks between June 4, 2023 and June 24, 2023.

An unemployment insurance benefits decision dated July 20, 2023 (reference 08) was issued to the claimant stating that he did not provide proof of citizenship and benefits were denied effective May 14, 2023. Claimant did not appeal that decision.

On July 26, 2023, the claimant emailed his citizenship documentation to the Iowa Workforce Development office. On November 6, 2023, Iowa Workforce Development issued a decision (reference 10) stating that the claimant had provided proof of citizenship, and his benefits were allowed but only effective October 29, 2023. No appeal to that decision was filed by the claimant and there was no allowance decision issued for the weeks in which the claimant had actually filed weekly-continued claims for benefits (May 14, 2023 through June 24, 2023).

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 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. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged for the overpayment.

In this case, the claimant was denied benefits by Iowa Workforce Development effective May 14, 2023 in the July 20, 2023 (reference 08) decision because he had not provided proper proof of citizenship. Claimant credibly testified that he provided documentation to the department on July 26, 2023; however, the weekly-continued claims for benefits he had filed were for weeks *before* the July 26, 2023 date when he had provided proof of his citizenship.

Because the claimant had been denied benefits effective May 14, 2023 and thereafter, at least through June 24, 2023, he was not eligible for the unemployment insurance benefits he

received. Therefore, he is overpaid benefits. The next issue concerns what the correct amount of the overpayment is.

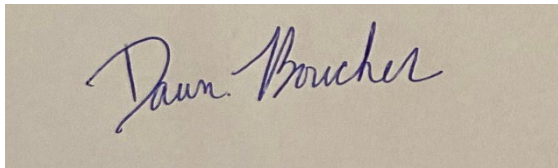
Claimant's first payment of benefits for the week-ending May 27, 2023 was issued and then cancelled. Claimant did not receive the net funds of benefits for that week; however, the agency did pay the state and federal taxes on his behalf. Therefore, he owes the federal taxes (\$33.50) and the state taxes (\$16.75) that was paid by the agency on his behalf.

Claimant also owes the gross amount of benefits (the net amount paid to him directly and the amount of state and federal taxes paid on his behalf) for the weeks between June 4, 2023 and June 24, 2023. The gross amount of payments for those weeks totals \$863.00.

Therefore, \$863.00 plus the state and federal taxes from the week-ending May 27, 2023 results in a total gross overpayment amount of \$913.25 owed to Iowa Workforce Development. The claimant must repay this overpayment of \$913.25 to the agency.

DECISION:

The unemployment insurance benefits decision dated November 21, 2023 (reference 11) is affirmed. The claimant is overpaid \$913.25 for the benefits paid to him and on his behalf for the weeks between May 14, 2023 and June 24, 2023. This total must be repaid to the agency.



Dawn Boucher
Administrative Law Judge

December 27, 2023
Decision Dated and Mailed

db/scn

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
6200 Park Avenue Suite 100
Des Moines, IA 50321
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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

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
6200 Park Avenue Suite 100
Des Moines, IA 50321
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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

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.