

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JASON C KELLING
Claimant

APPEAL NO. 22A-UI-10197-AD

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/29/19
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

On April 13, 2022, Jason Kelling (claimant/appellant) appealed the Iowa Workforce Development (“IWD”) decision dated April 5, 2022 (reference 02) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$6,657.84 for 14 weeks between December 29, 2019 and April 25, 2020 as a result of a prior decision denying benefits.

Claimant requested an in-person hearing. An in-person hearing was held at the IWD office at 1000 E Grand Ave. in Des Moines, Iowa on May 25, 2022. The parties were properly notified of the hearing. The claimant participated personally. Claimant’s mother, Celeste Kelling, observed the hearing.

Claimant’s proposed exhibits were not admitted due to not being properly submitted prior to the hearing date. Official notice was taken of the administrative record, including claimant’s payment history.

ISSUE:

Was the claimant overpaid regular, state unemployment insurance benefits (UI)?

FINDINGS OF FACT:

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

Claimant filed an original claim for unemployment insurance benefits effective December 29, 2019. Claimant filed weekly continued claims through July 11, 2020.

An IWD decision was issued on July 17, 2020 (reference 01) finding claimant was discharged from work on December 29, 2019 for violation of a known company rule. Claimant appealed the decision. A telephone hearing before another administrative law judge was held on September 9, 2020. Claimant’s former employer participated in that hearing as well. The administrative law judge affirmed the underlying decision but specifically determined claimant was discharged for disqualifying reasons on March 13, 2020. That decision was issued on September 10, 2020 and remains in force. See 20A-UI-08807-J1-T.

The administrative record shows claimant received UI in the gross amount of \$474.00 per week after the date of the disqualifying separation, from the benefit week ending March 14, 2020 through the benefit week ending April 18, 2020. Claimant also received UI in the gross amount of \$123.84 in the week ending April 25, 2020. The total amount of UI received during this period is in the gross amount of \$2,967.84.

Claimant argues the period of overpayment should not have begun on December 29, 2019 but instead on May 4, 2020. Claimant argues this is the correct date because he would not have returned to work from seasonal layoff until around that date. Claimant further argues he should have been eligible for pandemic-related benefits after that date because of the general advice at that time that people self-isolate.

The administrative law judge agrees the period of overpayment should not have begun on December 19, 2019. The period of overpayment begins with the benefit week ending March 14, 2020. This is because the administrative law judge who issued the September 10, 2020 decision regarding claimant's separation from employment specifically found the disqualifying separation occurred on March 13, 2020. The administrative law judge therefore finds claimant was not disqualified from benefits received prior to that date. Claimant received UI in the amount of \$3,690.00 during that period, from the benefit week ending January 4 through the benefit week ending March 7, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated April 5, 2022 (reference 02) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$6,657.84 for 14 weeks between December 29, 2019 and April 25, 2020 as a result of a prior decision denying benefits is MODIFIED in favor of appellant.

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 administrative record shows claimant received UI in the gross amount of \$474.00 per week after the date of the disqualifying separation, from the benefit week ending March 14, 2020 through the benefit week ending April 18, 2020. Claimant also received UI in the gross amount of \$123.84 in the week ending April 25, 2020. The total amount of UI received during this period is in the gross amount of \$2,967.84.

Claimant was subsequently disqualified from benefits during this period as determined in the administrative law judge decision issued on September 10, 2020. See 20A-UI-08807-J1-T. That decision is final and remains in force, meaning the undersigned does not have jurisdiction to change it at this point.

However, claimant was not disqualified from benefits prior to the benefit week ending March 14, 2020. Claimant received UI in the gross amount of \$3,690.00 during that period, from the benefit week ending January 4 through the benefit week ending March 7, 2020. The administrative law judge finds he was not overpaid during that period.

DECISION:

The decision dated April 5, 2022 (reference 02) that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$6,657.84 for 14 weeks between December 29, 2019 and April 25, 2020 as a result of a prior decision denying benefits is MODIFIED in favor of appellant. Claimant was overpaid UI in the gross amount of \$2,967.84, from the benefit week ending March 14 through the benefit week ending April 25, 2020. He was not overpaid prior to that period.



Andrew B. Duffelmeyer
Administrative Law Judge

May 26, 2022
Decision Dated and Mailed

abd/abd

Note to Claimant:

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.

If this decision determines you have been overpaid federal pandemic-related benefits you may request a waiver of the overpayment. Instructions for requesting a waiver can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

Individuals who do not qualify for regular unemployment insurance benefits and were unemployed between February 2, 2020, and June 12, 2021 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.** To apply for PUA go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals> and click the link in the last paragraph under "WHAT TO EXPECT FROM THE HEARING." **The authorization number is the PIN you used for the hearing.**

If this decision becomes final and you are not eligible for PUA, you may have an overpayment of benefits.