

IOWA DEPARTMENT OF INSPECTIONS AND
APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

ROGER SNYDER
7021 NORTHVIEW DR.
URBANDALE, IA 50322

IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS AND RECOVERY
IRMA LEWIS
430 EAST GRAND AVENUE
DES MOINES IA 50309

JOE WALSH, IWD

Appeal Number: 13IWDUI071
OC: 12/30/12
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.**

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

April 29, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Roger Snyder filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 22, 2013 (reference 01). In this decision, the Department imposed an administrative penalty that disqualified Snyder from receiving unemployment insurance benefits from December 30, 2012 through the end of his benefit year on December 28, 2013.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on February 6, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on February 13, 2013. On April 2, 2013, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Investigator Irma Lewis represented the Department and presented testimony. Exhibits A through F were submitted by the Department and admitted into

the record as evidence. Appellant Roger Snyder was provided instructions to participate in the hearing, but did not call in to do so. The hearing was held in his absence.

ISSUE

Whether the Department correctly imposed an administrative penalty on the basis of false statements made by the Appellant.

FINDINGS OF FACT

Roger Snyder filed a claim for unemployment insurance benefits with an effective date of December 30, 2012. At some point after Snyder filed this claim, the Department determined that he had made false statements regarding his employment and earnings in order to receive unemployment insurance benefits from January 10, 2010 through May 19, 2012. On the basis of this determination, the Department issued a decision imposing an administrative penalty that disqualified Snyder from receiving benefits from December 30, 2012 until December 28, 2013, the end of his current benefit year. (Exh. G).

During the 36 months preceding Snyder's filing of his most recent unemployment benefits claim, the Department issued three decisions finding he was overpaid. In each of those instances, the Department determined that the overpayment was a result of misrepresentation.¹ On September 21, 2010, the Department issued two overpayment decisions to Snyder. In the first, the Department determined that Snyder was overpaid \$841 in benefits for three weeks between January 24 and February 27, 2010 because he failed to report or incorrectly reported wages from Jensen Construction Co. In the second, the Department determined that Snyder was overpaid \$468 in benefits because he failed to report wages earned with Jensen Construction Co. during the week of January 10 through 16, 2010. On November 14, 2012, the Department issued another overpayment decision to Snyder finding that he was overpaid \$872 in benefits for two weeks between May 6 and May 19, 2012. That decision also states that the overpayment was a result of failing to report wages earned with Jensen Construction Co. (Exh. A4-A6).

Snyder has claimed unemployment insurance benefits during at least some part of every calendar year since 1994. In addition to the overpayments listed above, Snyder has also been found to have been overpaid benefits in 1995, 2000, 2001, 2003, 2005, 2007, and 2009. (Exh. A7-A10; Lewis testimony).

When Snyder filed his most recent unemployment benefits claim, Department investigator Irma Lewis sent him a letter. In the letter, Lewis referenced the previous overpayments and asked Snyder to contact her regarding the potential imposition of an administrative penalty. Snyder did not contact Lewis after the letter was sent.

¹ While the Department's decisions do not specifically state that the overpayment was the result of misrepresentation, each of the decisions states that it was made under section 96.16(4) of the Iowa Code. That section relates to overpayments made as a result of misrepresentation and the consequences the Department may impose.

Additionally, during each of the audits that resulted in the Department's overpayment decisions referenced above, Snyder was contacted and given the opportunity to respond regarding the potential overpayment before a decision was issued. Snyder has not responded to any of the audits. (Exh. A3; Lewis testimony).

The Department's unemployment claims system requires claimants to report whether they have worked each week that benefits are being claimed and, if so, the amount of wages earned. Snyder's overpayments resulted from him responding no to the question regarding whether he worked in certain weeks that he did work and from him underreporting wages that he earned in other weeks. During the most recent time period that Snyder was overpaid, he failed to report any wages during two weeks in which he earned \$674 and \$999. (Lewis testimony; Exh. E).

Snyder did not appear for the hearing and the Notice of Appeal he filed does not state any basis or justification for the appeal. (Lewis testimony; Exh. B).

REASONING AND CONCLUSIONS OF LAW

The Department is authorized to impose an administrative penalty when it determines that an individual has, within the thirty-six preceding calendar months, willfully and knowingly made a false statement or misrepresentation or willfully and knowingly failed to disclose a material fact with the intent to obtain unemployment benefits to which the individual is not entitled.² The imposition of an administrative penalty results in the forfeiting of all unemployment benefits for a period of time to be determined by the Department; the period, however, cannot exceed the remainder of the individual's benefit year.³

The Department's investigator considers the facts and nature of the offense in determining the degree and severity of the penalty. The penalty range for falsification is from three weeks through the remainder of the benefit year. The investigator has broad discretion to determine the actual penalty to be imposed within the range.⁴

The Department's investigator indicated at hearing that the Department's main concern in this case is that Snyder has a long history of filing for unemployment benefits and a long history of being overpaid benefits on the basis of failing to report or underreporting his wages. Snyder has never responded when the Department has audited the cases that resulted in overpayments being issued and he failed to respond again recently when the Department notified him about the potential of an administrative penalty being imposed. The evidence here demonstrates that Snyder has repeatedly made false statements with the intent to obtain benefits to which he has not entitled. At this point, a reasonable inference can be made that these false statements are being willfully and knowingly made as Snyder has been assessed overpayments during nine of the years that he has consecutively claimed benefits.

² Iowa Code § 96.5(8) (2013).

³ *Id.*

⁴ 871 Iowa Administrative Code (IAC) 25.9(2).

For purposes of this administrative penalty decision, the Department looked specifically to the overpayment decisions that cover the time period spanning 36 months before the most recent claim. The Department also considered Snyder's pattern of overpayments and pattern of failure to respond to the Department during audits in determining the penalty. Under these circumstances, the Department's decision to impose an administrative penalty was correct. The length of the administrative penalty imposed in this case does not exceed the time period allowed in the Department's regulations.

DECISION

Iowa Workforce Development's decision dated January 22, 2013 (reference 01) is **AFFIRMED**. The Department correctly imposed the administrative penalty. The Department shall take any action necessary to implement this decision.