

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KAYISSAN ATAYI
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL NO. 21A-UI-12766-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/15/19
Claimant: Appellant (1R)

Iowa Code § 96.6-2 – Timeliness of Appeal
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 14, 2021, reference 02, decision that found claimant to have been overpaid benefits. After due notice was issued, a hearing was held on July 24, 2021. The claimant did participate. Interpretive services were provided by CTS Language Link.

ISSUES:

Whether the appeal is timely?

Whether claimant is overpaid unemployment insurance benefits?

FINDINGS OF FACT:

Claimant was found to have filed a timely appeal in this matter.

Claimant acknowledged having received \$1,290.00 in state unemployment benefits in the four weeks ending on June 20, 2020. The overpayment decision arose as a result of the ref 01 decision finding claimant to be ineligible to receive unemployment benefits as claimant was not able and available for work for that period. Said reference 01 decision was affirmed in 20A-UI-18178-B2-T.

Claimant was granted PUA benefits covering this time period on June 7, 2021.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

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.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The administrative law judge concludes that claimant was overpaid unemployment insurance benefits in the amount of \$1,290.00 for the four weeks ending June 20, 2020, pursuant to Iowa Code section 96.3-7 as the disqualification decision that created the overpayment decision has now been affirmed.

Claimant has subsequently been granted PUA benefits for the time period covering the time when the overpayment was received. This matter will be remanded to the fact finder for a recalculation of the amount of overpayment – if any – in light of the award of PUA benefits.

DECISION:

The April 14, 2021, reference 02, decision is affirmed. Claimant was overpaid state benefits in the amount of \$1,290.00.

REMAND:

This matter will be remanded to the fact finder for a recalculation of the amount of overpayment – if any – in light of the award of PUA benefits.



Blair A. Bennett
Administrative Law Judge

July 30, 2021
Decision Dated and Mailed

bab/kmj