

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLEY CULVER
Claimant

CNOS FOUNDATION
Employer

APPEAL 22A-UI-05171-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (2)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.5(5) – Payment – Severance pay, disability, pension

STATEMENT OF THE CASE:

Claimant filed an appeal from the February 15, 2022 (reference 02) unemployment insurance decision that found claimant was overpaid regular unemployment insurance (UI) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on April 6, 2022. Claimant participated. Employer participated through Melanie Brown, Vice President of Human Resources, and Lisa Mulder, Finance Director. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is overpaid UI benefits.
Whether claimant correctly reported wages earned.

FINDINGS OF FACT:

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

Claimant filed an initial claim for benefits effective March 22, 2020. Claimant's weekly benefit amount is \$481.00. Claimant performed no work and earned no wages or other compensation during the benefit week ending April 4, 2020. (Exhibit 1) Claimant filed an ongoing weekly claim for the benefit week ending April 4, 2020 and reported no wages or other compensation. Claimant received unemployment insurance (UI) benefits in the gross amount of \$481.00 for the one-week period between March 29, 2020 and April 4, 2020.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.3(7) states:

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.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Claimant performed no work and earned no wages or other compensation for the benefit week ending April 4, 2020. Claimant correctly reported that she earned no wages when she filed her weekly claim. Because claimant earned no wages, she was entitled to her full UI benefit payment. Accordingly, claimant was not overpaid UI for the week ending April 4, 2020.

DECISION:

The February 15, 2022 (reference 02) unemployment insurance decision is reversed. Claimant was not overpaid benefits for the week ending April 4, 2020.



Adrienne C. Williamson
Administrative Law Judge
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April 8, 2022
Decision Dated and Mailed

acw/ACW