

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**HALEY LUTWITZE**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 20A-UI-05212-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant, Haley Lutwitze, filed an appeal from the May 27, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that established an overpayment of benefits. After proper notice, a telephone hearing was held on June 30, 2020. The claimant participated personally.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the claimant incorrectly report wages while claiming benefits?

If so, is she overpaid unemployment insurance benefits as a result?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits with an effective date of April 12, 2020.

For the week ending April 18, 2020, the claimant did not perform work and did not receive any wages or compensation from her employer (Claimant Exhibit A). Claimant reported \$0 in wages when making her weekly claim for the week. Employer erroneously reported to IWD that the claimant had earned wages, but later contacted IWD to acknowledge there had been an employer error in the reporting (Claimant Exhibit A/ Administrative Record).

The administrative record shows, claimant filed for and received a total of \$359.00 in unemployment insurance benefits for the week ending April 18, 2020.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant correctly reported wages for the week ending April 18, 2020, and is not overpaid as a result.

Iowa Code § 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.

Iowa Admin. Code r. 871-23.2(2) provides:

Definition of wages for employment during a calendar quarter.

(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The Employer's Contribution and Payroll Report, Form 65-5300, shall be used as prima facie evidence of when the wages were paid. If the wages are not listed on the 65-5300, they shall be considered as paid:

- a. On the date appearing on the check.
- b. On the date appearing on the notice of direct deposit.
- c. On the date the employee received the cash payment.
- d. On the date the employee received any other type of payment in lieu of cash.

Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

In this case, the claimant did not earn wages for the week ending April 18, 2020 (Claimant Exhibit A). Since the claimant did not earn wages for the week in question, there was no overpayment of benefits.

**DECISION:**

The unemployment insurance decision dated May 27, 2020, (reference 01) is reversed. . Wages were correctly reported. The claimant has not been overpaid \$359.00 in regular unemployment insurance benefits.



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July 13, 2020  
Decision Dated and Mailed

jlb/scn