

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

DANIELLE MORRIS
Claimant

APPEAL 23R-UI-04964-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (4)

Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 96.16(4) – Offenses and Misrepresentation
Iowa Admin. Code r. 871-25.1 – Misrepresentation & Fraud

STATEMENT OF THE CASE:

On March 10, 2023, claimant filed an appeal from the February 14, 2023 (reference 05) unemployment insurance decision that found claimant was overpaid LWAP unemployment insurance (UI) benefits. The parties were properly notified of the hearing. A telephonic hearing was held on June 28, 2023 and April 7, 2023. The recording made in both hearing dates are incorporated into this record. Appeal numbers 23R-UI-04962-ED-T, 23R-UI-04963-ED-T, 23R-UI-04964-ED-T, 23R-UI-04965-ED-T, 23R-UI-04966-ED-T and 23R-UI-04967-ED-T were heard together and created one record. The claimant, Danielle Morris, participated. Claimant's parents Jim and Jayne Morris participated on the claimant's behalf. Iowa Workforce Development participated through Kara Harrison. The administrative law judge took official notice of the administrative record.

ISSUES:

Whether claimant was overpaid UI benefits.
Whether a penalty was properly imposed.

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 15, 2020.

Claimant does not dispute the wage amounts employer reported. Claimant reported net wages received each week instead of gross wages earned. Claimant reported that no wages earned because they believed they were filing against a particular employer and only needed to report wages earned with that employer.

When the claim was initially filed, claimant agreed to read the Unemployment Insurance Handbook.

The handbook instructs claimants on what to report on their weekly claims:

You must report all gross earnings and gross wages on the weekly claim. Wages are reportable when earned, not when paid. Gross earnings or gross wages are your earnings before taxes or other payroll deductions are made. For additional information, please refer to the page on reportable income.

The handbook provides further guidance on reporting earnings:

Gross earnings or gross wages are your earnings before taxes or other payroll deductions are made. Earnings or wages must be reported on the weekly claim during the week the wages are earned, not when the wages are paid. Earnings must be reported even if you have not yet received the payment. To calculate the amount to report, multiply the number of hours you worked by your hourly wage. . . .

The handbook alerts claimants to the consequences for providing false or fraudulent statements to collect benefits:

Fraud is knowingly providing false information or withholding information to receive UI benefits. Fraudulently collecting UI benefits is a serious offense. It can lead to severe penalties, which include:

- criminal prosecution, fines, and imprisonment
- An overpayment of fraudulently collected unemployment insurance benefits that you must repay, plus a fifteen percent misrepresentation penalty and daily interest . . .

IWD conducted an audit and discovered that the claimant did not report all wages earned through Kwik Trip, OPAA Food management and Simmit Foods. On February 14, 2023, IWD issued a decision (reference 05) finding claimant was overpaid LWAP in the amount of \$900.00 for the 3-week period between July 26, 2020 through August 29, 2020. In addition, IWD imposed a 15% penalty for misrepresentation. Claimant objects to the imposition of the penalty because she has been diagnosed with a learning disability and did not understand the requirements that she was required to report wages from all of her employers. The claimant did not inform the investigator of her disability at the time of the investigation. The claimant's failure to report all wages was not intentional.

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.

The decision that denied claimant UI benefits remains in effect. Because claimant is not eligible for UI benefits, claimant is also not eligible for LWAP benefits. Therefore, claimant has received LWAP benefits to which claimant was not entitled. The administrative law judge concludes that

claimant has been overpaid LWAP benefits in the amount outlined in the findings of fact above. Those benefits must be recovered in accordance with Iowa law.

The next issue to be determined is whether an administrative penalty due to fraud was properly imposed. For the reasons that follow, the administrative law judge concludes:

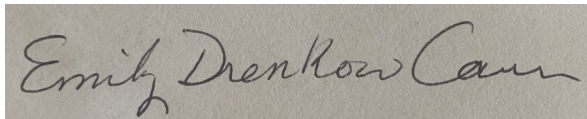
Title 44 of the Code of Federal Regulations section 206.116(b) provides: An applicant must return funds to FEMA and/or the State (when funds are provided by the State) when FEMA and/or the State determines that the assistance was provided erroneously, that the applicant spent the funds inappropriately, or that the applicant obtained the assistance through fraudulent means.

Title 44 of the Code of Federal Regulations governing the Federal Emergency Management Agency's Federal Disaster Assistance Program does not authorize the imposition of an administrative penalty for fraud.

Therefore, the administrative penalty for fraud was not properly imposed.

DECISION:

The February 14, 2023 (reference 05) unemployment insurance decision is MODIFIED IN FAVOR OF APPELLANT. Claimant was overpaid LWAP benefits in the amount of \$900.00 which must be repaid. No administrative penalty for fraud shall be applied to the overpayment.



Emily Drenkow Carr
Administrative Law Judge

June 30, 2023
Decision Dated and Mailed

ed/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.