

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAVIER LOPEZ
Claimant

APPEAL NO. 21A-UI- 06740-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/05/20
Claimant: Appellant (3)

Iowa Code Section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

On February 26, 2021, the claimant filed an appeal that the Appeals Bureau treated as a timely appeal from the March 30, 2021 (reference 06) decision that held the claimant was overpaid \$1,266.00 in regular benefits. After due notice was issued, a hearing was held on May 13, 2021. The hearing this matter was consolidated with the hearing in Appeal Number 21A-UI-06741-JT-T. The claimant participated in the hearing. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, KCCO, NMRO, the reference 03 through reference 07 decisions, and the administrative law judge decision in 20A-UI-12406-AD-T.

ISSUE:

Whether the claimant is overpaid regular benefits for the eight-week period of April 5, 2020 through May 30, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for regular benefits that was effective April 5, 2020. Iowa Workforce Development set the weekly benefit amount for regular state benefits at \$474.00. The claimant made weekly claims for each of the weeks between April 5, 2020 and May 30, 2020. The claimant reported wages and received regular benefits as follows:

PAYMENT-RECORDS . .				***** UI *****		
BWE-DATE	RPT-CODE	AMT-RP	ISSUE-DT	P	PAY-CODE	AMOUNT
04/11/20	CLEAR	.00	04/20/20	2	PAID-DC	474.00
04/18/20	CLEAR	.00	04/20/20	2	PAID-DC	474.00
04/25/20	CLEAR	.00	04/27/20	2	PAID-DC	474.00
05/02/20	CLEAR	.00	05/04/20	2	PAID-DC	474.00
05/09/20	CLEAR	.00	05/11/20	2	PAID-DC	474.00
05/16/20	OVER15	300.00	05/18/20	2	PAID-DC	292.00
05/23/20	OVER15	301.00	05/26/20	2	PAID-DC	291.00
05/30/20	OVER15	383.00	06/01/20	2	PAID-DC	209.00

After the claimant had made a number of weekly claims, he learned that the employer was paying half of his wages as COVID-based short-term disability benefits for each claim week. The claimant's wage was \$15.00 an hour. The payments were for the equivalent of work, \$300.00. The claimant commenced reporting these payments when he made his weekly claim for the week that ended May 16, 2020.

The regular benefits paid to the claimant for the period of April 5, 2020 through May 30, 2020 totaled \$3,162.00.

Iowa Workforce Development also paid \$600.00 in weekly Federal Pandemic Unemployment Compensation (FPUC) for each of the eights in question. The FPUC benefits totaled \$4,800.00.

On September 11, 2020, an Iowa Workforce Development Benefits Bureau deputy entered a reference 03 decision that denied benefits effective April 5, 2020, based on the deputy's conclusion that the claimant was unable to perform work due to illness.

On September 18, 2020, the claimant foiled a timely appeal from the reference 03 decision. On December 7, 2020, the claimant participated in an appeal hearing in Appeal Number 20A-UI-12406-AD-T.

On December 15, 2020, the Appeals Bureau mailed the administrative law judge's decision to the claimant. The administrative law judge modified the reference 03 decision. The administrative law judge concluded the claimant was able to work and available for work during the four benefit weeks between April 5, 2020 and May 2, 2020. The administrative law judge *allowed* benefits to the claimant for each of the four weeks between April 5, 2020 and May 2, 2020, provided the claimant was otherwise eligible. 20A-UI-12406-AD-T at page 2.

The administrative judge concluded the claimant did *not* meet the availability requirements during the four benefits weeks between May 3, 2020 and May 30, 2020 and *denied* benefits for those four weeks. 20A-UI-12406-AD-T at page 2.

The administrative law judge further concluded that the claimant had failed to report \$286.00 in short-term disability benefits paid to the claimant for each of the eight weeks in question. 20A-UI-12406-AD-T at page 2. The administrative law judge remanded the question of whether the claimant was overpaid benefits to the Benefits Bureau. 20A-UI-12406-AD-T at page 2.

IWD records reflect that the claimant had in fact reported the short-term disability payments when he made his weekly claims for the weeks ending May 16, May 23, and May 30, 2020. Those three weeks were included in the weeks during which the administrative law judge concluded the claimant was not eligible for benefits. The claimant had not reported the short-term disability pay when he made his weekly claims for the earlier weeks.

Iowa Workforce Development records reflect that the claimant did to appeal the administrative law judge's decision to the Employment Appeal Board.

On December 11, 2020, an Iowa Workforce Development Benefits Bureau deputy entered the reference 04 decision that held the claimant was overpaid \$3,162.00 in regular benefits for the eight weeks between April 5, 2020 and May 30, 2020. The reference 04 decision stated that the decision was based a September 10, 2020 decision disqualified the claimant for benefits in connection with a determination that the claimant did not meet the able and available requirements. The reference 03 decision that IWD mailed to the claimant on September 11, 2020 would have been entered into the IWD computer system on September 10, 2020. In other

words, the December 11, 2020 (reference 04) overpayment decision was based on the September 11, 2020 (reference 03) decision that denied benefits effective April 5, 2020. The December 11, 2020 (reference 04) decision did not factor in the administrative law judge's modification of the reference 03 decision.

On February 23, 2021, an Iowa Workforce Development Benefits Bureau deputy entered the reference 05 decision that the claimant was overpaid \$4,800.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the eight weeks between April 5, 2020 and May 30, 2020, based on the reference 03 decision that held the claimant was able to work and available for work during that period. The February 23, 2021, reference 05, decision did not factor in the administrative law judge's modification of the reference 03 decision.

On February 26, 2021, the claimant filed a timely appeal from the February 23, 2021 (reference 05) decision. The claimant stated his reason for appeal as follows: "Because I was working and West Liberty Foods don't accept me for work because I travel to Chicago and the my wife came from Mexico and I was available for work."

In response to the claimant's appeal, an Appeals Bureau intake person sent an email message to the claimant, advising that the Appeal Bureau had docketed appeals from the overpayment decision. The claimant's February 26, 2021 would be a late appeal from the December 11, 2020 (reference 04) overpayment decision, if applied to that decision.

The Appeals Bureau intake staff wrote as follows:

We have set up the appeal(s) to the overpayment decision(s). On December 15, 2020, the Appeals Bureau issued a decision in appeal 20A-UI-12406-AD-T regarding the underlying issue that created the overpayment. You typically have fifteen days to appeal a decision from the Appeals Bureau to the Employment Appeal Board. If you wish to appeal the decision on the underlying issue, please send your appeal to:

Employment Appeal Board
Lucas State Office Building
Fourth Floor
Des Moines, Iowa 50319
Fax: 515-271-7191

Iowa Workforce Development records reflect that the claimant did not appeal the administrative law judge's decision in 20A-UI-12406-AD-T, even after being urged to by the Appeals Bureau to do so. The administrative law judge's decision in 20A-UI-12406-AD-T.

On March 30, 2021, an Iowa Workforce Development Benefits Bureau deputy entered the reference 06 overpayment decision. The reference 06 decision stated:

Your overpayment decision dated 12/11/20 has been reviewed due to the receipt of additional information. As a result of the review, your overpayment had been reduced to \$1,266.00. Your next billing statement will reflect this adjustment.

In other words, the reference 06 decision purported to amend and/or correct the reference 04 decision. The effect of the reference 06 decision was to remove \$1,896.00 of the overpayment amount included in the reference 04 decision's \$3,162.00 overpayment amount so that there was no longer an overpayment amount applicable to the four weeks between April 5, 2020 and May 2, 2020. However, the reduction in the overpayment amount disregarded, omitted or

otherwise did not factor the claimant's receipt of short-term disability benefits during the four weeks between April 5, 2020 and May 2, 2020. The \$1,266.00 overpayment amount set forth in the reference 06 decision accurately set forth the overpayment amount that would to the four weeks between May 3, 2020 and May 30, 2020, based the administrative law judge's denial of benefits for those weeks.

On March 30, 2021, an Iowa Workforce Development Benefits Bureau deputy entered the reference 07 overpayment decision. The reference 06 decision does not explicitly state that it is about FPUC benefits, but it is about FPUC benefits. The reference 07 decision reduced the FPUC overpayment amount from \$4,800.00 to \$2,400.00 so that the FPUC overpayment only applied to the four weeks between May 3, 2020 through May 30, 2020, and not for the four weeks between April 5, 2020 through May 2, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

The administrative law judge's decision in Appeal Number 20A-UI-12406-AD-T that allowed benefits, provided the claimant was otherwise eligible, for the four-week period of April 5, 2020 through May 2, 2020. The administrative law judge's decision in Appeal Number 20A-UI-12406-AD-T denied benefits for the four-week period of May 3, 2020 through May 30, 2020. The administrative law judge's decision remains in effect. Accordingly, all of the regular benefits the claimant received for the period of May 3, 2020 through May 30, 2020 are overpaid benefits. That amount is \$1,266.00, the amount referenced in the March 30, 2021, reference 06, decision. But that is not the end of the overpayment analysis.

For the four-week period of April 5, 2020 through May 2, 2020, the claimant was eligible for some but not all of the \$474.00 in weekly benefits he received for those each of those four weeks. That portion of the \$300.00 COVID short-term payment that exceeded one-fourth of the \$474.00 weekly benefit would be deductible from the weekly benefit eligibility. One-fourth of \$474.00 is \$118.50 (rounded to \$118.00). Thus, the amount that exceeds \$118.00 is deductible from benefits. That amount to be deducted is \$182.00. This deduction is illustrated in how IWD initially processed the claimant's weekly claim for the week that ended May 16, 2020, before the Agency determined the claimant was not eligible for benefits for that week. For the weeks between April 5, 2020 and May 2, 2020, the claimant was eligible for \$292.00 per week in regular benefits, not \$474.00. There was a \$182.00 overpayment of regular benefits for each of those four weeks. That amounts to a \$728.00 overpayment for those four weeks that must be added to the \$1,266.00 overpayment that applies to the four weeks between May 3, 2020 and May 30, 2020.

In sum, the claimant was overpaid \$1,994.00 in regular benefits for the eight-week period of April 5, 2020 through May 30, 2020. The claimant must repay the overpaid regular benefits.

DECISION:

The March 30, 2021 (reference 06) decision is modified adverse to the claimant/appellant as follows. The claimant was overpaid \$728.00 in regular benefits for the four weeks between April 5, 2020 and May 2, 2020. The claimant was overpaid \$1,266.00 in regular benefits for the four-weeks between May 3, 2020 and May 30, 2020. In sum, the claimant was overpaid \$1,994.00 in regular benefits for the eight-week period of April 5, 2020 through May 30, 2020. The claimant must repay the overpaid regular benefits.



James E. Timberland
Administrative Law Judge

May 21, 2021
Decision Dated and Mailed

jet/kmj

Note to Claimant: This decision determines you are overpaid regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.