

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAREN S CAMERON
Claimant

APPEAL 21A-UI-14770-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/12/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Overpayment of Benefits – Lost Wages Assistance (LWA)

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the June 3, 2021 (reference 04) unemployment insurance decision that found claimant was overpaid Lost Wages Assistance (LWA) benefits in the amount of \$1,800.00 for the six weeks between July 26, 2020 and September 5, 2020. The claimant was properly notified of the hearing. A telephone hearing was held on August 24, 2021. The claimant participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records. The hearing was consolidated with Appeal No. 21A-UI-14768-DB-T and 21A-UI-14769-DB-T.

ISSUE:

Is the claimant overpaid LWA benefits from July 26, 2020 through September 5, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an original claim for unemployment insurance benefits effective July 12, 2020. Her established weekly benefit amount was \$347.00 and her maximum benefit amount was \$5,519.25. She was paid regular unemployment insurance benefits funded by the State of Iowa in the amount of \$3,249.00 for the weeks between July 12, 2020 and September 19, 2020. She was also paid Lost Wages Assistance (LWA) benefits for six weeks beginning July 26, 2020 and ending September 5, 2020.

A decision that disqualified her from being eligible for regular unemployment insurance benefits funded by the State of Iowa was issued on February 12, 2021 (reference 01). That decision had found that the claimant had voluntarily quit her employment with Oelwein Publishing Company on September 17, 2019 and that her voluntarily quitting work was without good cause attributable to the employer. Benefits were denied effective her original claim date of July 12, 2020. Claimant filed an appeal to that decision and an appeal hearing was held with ALJ Timberland. In Appeal No. 21A-UI-06157-JT-T, ALJ Timberland found that the claimant's separation from employment with Oelwein Publishing Company was disqualifying but that claimant had been paid wages for insured work of at least ten times her weekly benefit amount effective October 3, 2020 and benefits were allowed effective October 3, 2020 based upon that

requalification, and provided she remained otherwise eligible. See Appeal No. 21A-UI-06157-JT-T. No other disqualifying decisions were entered on the claimant's account as of the date of this hearing.

Claimant's administrative records establish that she filed weekly-continued claims for benefits consecutively from July 12, 2020 through May 1, 2021. Claimant was not paid any further regular unemployment insurance benefits after the week-ending November 14, 2020. From November 15, 2020 through May 1, 2021, claimant was paid Federal Pandemic Emergency Unemployment Compensation (PEUC) benefits.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.3(7)a 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.

On August 8, 2020, President Trump signed the *Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019*. It provided in pertinent part:

"Sec 4. Assistance Program for Lost Wages.

- (a) For purposes of this memorandum, "State" includes the territories and the District of Columbia, and "Governor" includes the chief executive thereof.
- (b) To help meet the needs of the American people during this unprecedented and continuously evolving public health crisis, the Secretary of Homeland Security (Secretary), acting through the FEMA Administrator, is authorized to make available other needs assistance for lost wages, in accordance with section 408(e)(2) of the Stafford Act (42 U.S.C. 5174(e)(2) ("lost wages assistance"), to the people of a State, including the members of any tribe residing therein, if the Governor requests lost wages assistance and agrees to administer delivery and provide adequate oversight of the program, for a major disaster I declared pursuant to section 401 of the Stafford Act (42 U.S.C. 5170) for COVID-19, under the following conditions:
 - (i) the Governor requests from the FEMA Administrator a grant for lost wages assistance pursuant to 42 U.S.C. 5174(f)(1)(A) and agrees to the cost-sharing requirement of 42 U.S.C. 5174(g)(2); and
 - (ii) the Governor administers delivery of financial assistance for lost wages in conjunction with the State's unemployment insurance system.
- (c) In exercising this authority, the Secretary, acting through the FEMA Administrator, shall, subject to the limitations above, approve a lost wages assistance program that authorizes the Governor to provide a \$400 payment per week, which shall reflect a \$300 Federal contribution, to eligible claimants from the week of unemployment ending August 1, 2020.

- (d) For purposes of this memorandum, the term "Eligible claimants" means claimants who:
- (i) receive, for the week lost wages assistance is sought, at least \$100 per week of any of the following benefits:
 - (A) Unemployment compensation, including Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Service members (UCX), under section 8501 of title 5, United States Code;
 - (B) Pandemic Emergency Unemployment Compensation (PEUC), under section 2107 of the CARES Act;
 - (C) Pandemic Unemployment Assistance (PUA), under section 2102 of the CARES Act;
 - (D) Extended Benefits (EB), under section 3304 of title 26, United States Code;
 - (E) Short-Time Compensation (STC), under section 3306(v) of title 26, United States Code;
 - (F) Trade Readjustment Allowance (TRA), under sections 2291 through 2293 of title 19, United States Code; and
 - (G) Payments under the Self-Employment Assistant (SEA) program, under section 3306(t) of title 26, United States Code; and
 - (ii) provide self-certification that the claimant is unemployed or partially unemployed due to disruptions caused by COVID-19.
- (e) The authority vested in the Secretary, acting through the FEMA Administrator, to approve lost wages assistance shall not be construed to encompass authority to approve other forms of assistance.

The state is responsible for refunding to FEMA any unobligated balances that FEMA paid that are not authorized to be retained per 2 C.F.R. 200.343(d) and the state is also responsible for recovering assistance awards from claimants obtained fraudulently. See UIPL No. 27-20 Change 1 dated August 17, 2020 citing 44 C.F.R. 206.120(f)(4 and 5). 44 C.F.R. § 206.16 provides as follows:

- (a) The applicant must agree to repay to FEMA (when funds are provided by FEMA) and/or the State (when funds are provided by the State) from insurance proceeds or recoveries from any other source an amount equivalent to the value of the assistance provided. In no event must the amount repaid to FEMA and/or the State exceed the amount that the applicant recovers from insurance or any other source.
- (b) 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.

The LWA program provided a supplemental payment of \$300.00 per week for eligible weekly claims between July 26, 2020 and September 5, 2020, when the program ended. The weekly supplemental payments were paid to claimant automatically so long as they were eligible for other regular State of Iowa funded unemployment insurance benefits, Federal Pandemic Unemployment Assistance benefits, or another eligible benefit program.

In this case, the claimant was paid LWA benefits of \$1,800.00 for the six weeks between July 26, 2020 and September 5, 2020; however, the claimant was only eligible for regular unemployment insurance benefits effective October 3, 2020 pursuant to ALJ Timberland's decision in Appeal No. 21A-UI-06157-JT-T. As such, the claimant is overpaid LWA benefits of

\$1,800.00 for the six weeks between July 26, 2020 and September 5, 2020 and those benefits must be repaid to the agency unless a waiver of overpayment is requested and granted.

Claimant may request an overpayment waiver for LWA benefits. The request should be sent to:

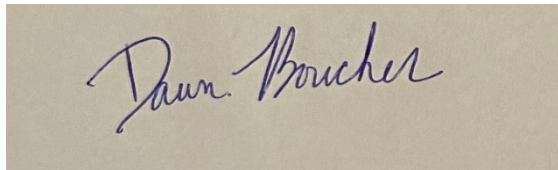
Iowa Workforce Development
Overpayment waiver request
1000 East Grand Avenue
Des Moines, IA 50319

The written request must include the following:

1. Claimant name & address.
2. Decision number/date of decision.
3. Dollar amount of overpayment requested for waiver.
4. Relevant facts that you feel would justify a waiver.

DECISION:

The June 3, 2021 (reference 04) unemployment insurance decision is affirmed. The claimant was overpaid LWA benefits of \$1,800.00 for the six weeks between July 26, 2020 and September 5, 2020. Those benefits must be repaid to the agency unless a waiver of overpayment is requested and granted.



Dawn Boucher
Administrative Law Judge

August 27, 2021
Decision Dated and Mailed

db/kmj