

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

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**DAVID C WILLEMSSEN**  
Claimant

**APPEAL NO. 22A-UI-09072-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/22/20  
Claimant: Appellant (1)**

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Iowa Code Section 96.3(7) – Overpayment, Lost Wages Assistance Payments

**STATEMENT OF THE CASE:**

On April 8, 2022, David Willemsen (claimant) filed a timely appeal from the March 30, 2022 (reference 03) decision that held the claimant was overpaid \$600.00 in Lost Wages Assistance Payments (LWAP) for two weeks between August 2, 2020 and August 15, 2020, based on the deputy's conclusion that the claimant failed to report or incorrectly reported wages earned with Bergos Enterprises, L.L.C. After due notice was issued, a hearing was held on May 24, 2022. Claimant participated. There were three appeal numbers set for a consolidated hearing: 22A-UI-09068-JT-T, 22A-UI-09069-JT-T, and 22A-UI-09072-JT-T. Exhibit A and Department Exhibits D-1 through D-8 were received into evidence.

**ISSUE:**

Whether the claimant was overpaid \$600.00 in Lost Wages Assistance Payments (LWAP) for two weeks between August 2, 2020 and August 15, 2020, based on the deputy's conclusion that the claimant failed to report or incorrectly reported wages earned with Bergos Enterprises, L.L.C.

**FINDINGS OF FACT:**

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

David Willemsen (claimant) established an original claim for benefits that was effective March 22, 2020. The claimant received benefits that included \$300.00 in weekly Lost Wages Assistance Payments (LWAP) for the week that ended August 8, 2020 and for the week that ended August 15, 2020.

On March 30, 2022, an Iowa Workforce Development Benefits Bureau deputy entered a reference 01 decision that held the claimant was overpaid \$1,210.00 in regular state benefits for 14 weeks between June 28, 2020 and October 3, 2020, due to the claimant incorrectly reporting wages earned with Bergos Enterprises, L.L.C. The deputy determined the claimant's wages for the weeks ending August 8, 2020 and August 15, 2020 exceeded the claimant's \$178.00 weekly benefit amount for regular benefits by more than \$15.00, rendering the claimant ineligible for benefits for those two weeks. The reference 01 decision, including the deputy's analysis, has been affirmed in Appeal Number 22A-UI-09068-JT-T

**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.

Because the reference 01 decision included a finding the claimant was not eligible for benefits for the weeks that ended August 8 and August 15, 2020, and because the reference 01 decision, including the deputy's analysis, has been affirmed, the \$600.00 in LWAP benefits the claimant received for the two weeks between August 2, 2020 and August 15, 2020 are an overpayment of benefits. The claimant must repay the overpaid LWAP benefits unless the claimant applies for and is approved for waiver of repayment of LWAP benefits. See below.

**DECISION:**

The March 30, 2022 (reference 03) decision is AFFIRMED. The claimant was overpaid \$600.00 in LWAP benefits for two weeks between August 2, 2020 and August 15, 2020. The claimant must repay the overpaid LWAP benefits unless the claimant applies for and is approved for waiver of repayment of LWAP benefits. See below.



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James E. Timberland  
Administrative Law Judge

July 27, 2022  
Decision Dated and Mailed

jet/scn

*Note to Claimant:* This decision determines you have been overpaid LWAP 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. Additionally, instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

**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  
4<sup>th</sup> 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.