

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

MARC R BLACKBURN
Claimant

APPEAL NO. 23A-UI-04815-PT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/17/22
Claimant: Appellant (2R)**

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

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated May 4, 2023, (reference 03) that concluded claimant was overpaid Lost Wage Assistance Payments (LWAP) in the amount of \$10,088.00 for the twenty-six weeks ending November 5, 2022, due to an unemployment insurance decision dated May 4, 2023, (reference 02) that determined claimant was ineligible for a workers' compensation exclusion claim. After due notice, a hearing was held on May 26, 2023. The hearing was held together with appeal 23A-UI-04813-PT-T and created one record. Claimant participated personally. The administrative law judge took official notice of the administrative record.

ISSUES:

Whether claimant is overpaid regular unemployment insurance benefits.
Whether claimant is overpaid LWAP benefits.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: Claimant's weekly benefit amount is \$388.00. Claimant received his full benefit amount each week for twenty-six weeks. In total, claimant filed for and has received regular unemployment insurance benefits in the gross amount of \$10,088.00 for the twenty-six weeks ending November 5, 2022. Claimant has received no LWAP benefits. On May 4, 2023, Iowa Workforce Development (IWD) issued a decision (reference 02) that disqualified claimant from receiving regular unemployment insurance benefits. That decision has been reversed and remanded to the IWD Benefits Bureau for a redetermination of claimant's base period and for a review of claimant's monetary eligibility. See 23A-UI-04813-PT-T.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes:

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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

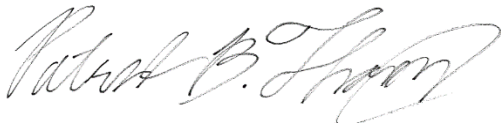
The decision disqualifying claimant from receiving benefits has been reversed and remanded to the IWD Benefits Bureau for a redetermination of claimant's base period and for a review of claimant's monetary eligibility. See 23A-UI-04813-PT-T. As claimant is eligible for a redetermination of his base period, the amount of any outstanding overpayment of regular unemployment insurance benefits cannot be determined at this time. Any reduction in claimant's overpayment resulting from IWD's redetermination of claimant's base period is remanded to IWD's Benefits Bureau for review.

DECISION:

The May 4, 2023, (reference 03) unemployment insurance decision is reversed. Claimant was not overpaid \$10,088.00 in Lost Wage Assistance Payments (LWAP) for the twenty-six weeks ending November 5, 2022.

REMAND:

This matter is remanded to the Benefits Bureau of Iowa Workforce Development to determine any overpayment in regular unemployment insurance benefits resulting from the redetermination of claimant's base period and monetary eligibility.



Patrick B. Thomas
Administrative Law Judge

June 6, 2023
Decision Dated and Mailed

pbt/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.