

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BIENVENUE M TSHIABOLA
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-19796-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/30/19
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

Bienvenue M. Tshiabola, the claimant/appellant, filed an appeal from the September 2, 2021, (reference 04) unemployment insurance decision that concluded she was overpaid REGULAR unemployment insurance benefits (UI) in the amount of \$2,490.00. Ms. Tshiabola was properly notified of the hearing. A telephone hearing was held on November 3, 2021. Ms. Tshiabola participated and testified. The administrative law judge took official notice of the administrative record.

ISSUES:

Has Ms. Tshiabola been overpaid REGULAR UI benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Tshiabola filed an initial claim for REGULAR UI benefits effective June 30, 2019. She reopened her claim on May 24, 2020. She filed weekly claims and reported her weekly wages between September 1, 2019 and June 13, 2020.

Almost five months after she had reopened her claim and after she had already received REGULAR UI benefits, IWD issued a decision dated October 2, 2020, (reference 03) finding Ms. Tshiabola not eligible for REGULAR UI benefits as of April 19, 2020. Ms. Tshiabola had received REGULAR UI benefits in the amount of \$2,490.00 for five weeks between April 19, 2020 and June 13, 2020 (\$498.00 per week X 5 weeks = \$2,490.00). Since Ms. Tshiabola had already received REGULAR UI benefits, but she was not eligible for those benefits per the reference 03 decision, IWD issued the reference 04 decision appealed in this matter.

Ms. Tshiabola appealed the reference 03 decision that found her not eligible for REGULAR UI benefits to the Iowa Workforce Development Appeals Bureau. The administrative law judge's (ALJ) decision in Appeal 21A-UI-19795-DZ-T, modified the reference 03 decision in favor of Ms. Tshiabola. The ALJ decision found Ms. Tshiabola eligible for REGULAR UI benefits from April 20, 2020 through May 4, 2020, not eligible from May 26, 2020 through June 15, 2020, and eligible as of July 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Tshiabola has been overpaid REGULAR UI benefits for three weeks between May 24, 2020 and June 15, 2020. Ms. Tshiabola has not been overpaid benefits for the week ending April 25, 2020, or the week ending May 2, 2020.

Iowa Code §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.

Per Iowa law, Ms. Tshiabola has been overpaid REGULAR UI benefits in the amount of \$1,494.00 for three weeks between May 24, 2020 and June 15, 2020 (\$498.00 per week X 3 weeks = \$1,494.00). Ms. Tshiabola has been overpaid REGULAR UI benefits because she is not qualified and/or eligible to receive REGULAR UI benefits between May 24, 2020 and June 15, 2020 per the administrative law judge's decision in Appeal 21A-UI-19795-DZ-T.

Ms. Tshiabola has not been overpaid REGULAR UI benefits for the week ending April 25, 2020, or the week ending May 2, 2020 since she is eligible for REGULAR UI benefits during those weeks per the administrative law judge's decision in Appeal 21A-UI-19795-DZ-T.

DECISION:

The September 2, 2021, (reference 04) unemployment insurance decision is modified in favor of the appellant, Ms. Tshiabola. Ms. Tshiabola has been overpaid REGULAR UI benefits in the amount of \$1,490.00, which must be repaid.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
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Fax 515-478-3528

December 6, 2021
Decision Dated and Mailed

dz/scn

NOTE TO MS. TSHIABOLA:

- If you were unemployed between May 24, 2020 and June 15, 2020 for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>.
- **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **You can still apply for PUA benefits at the link above if your initial claim for benefits was filed before June 12, 2021.** Your initial claim for benefits was filed on June 30, 2019.