

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARVIN L SLATER
Claimant

APPEAL 20A-UI-06026-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/24/20
Claimant: Appellant (1)

Iowa Code § 96.5(13) – Disqualification due to Outstanding Fraud Overpayment
Iowa Code § 96.16(4) – Offenses and Misrepresentation
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant/appellant, Slater, filed an appeal from the June 3, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was ineligible for unemployment insurance benefits due to an outstanding fraud overpayment balance.

The parties were properly notified of the hearing. A telephone hearing was held on July 15, 2020. The claimant, Slater, participated personally. No one participated on behalf of IWD. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant ineligible for benefits due to an outstanding fraud overpayment balance?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits with an effective date of 2017. During that claim year, an investigatory audit was conducted regarding the claimant’s failure to report all wages while he concurrently filed weekly continued claims for benefits. During the weeks ending September 2, 2017 through September 16, 2017 claimant applied for unemployment benefits while receiving wages from Export Packaging. Consequently, a decision was issued on May 2, 2018, which found that the claimant was overpaid benefits of \$600.00, including interest and a 15% penalty due to fraud. The claimant did not appeal the decision and it became final.

The claimant denied that he had ever spoke with a representative from IWD and stated that he was incarcerated. Claimant did not state the dates of incarceration and said he was not sure

when pressed on the issue. Claimant provided documentation of his 2019 earnings, but did not address the issue of unemployment benefits in the years prior.

The claimant then established a claim with an effective date of May 24, 2020. Effective July 1, 2018, a claimant with an overpayment by reason of misrepresentation is disqualified to receive unemployment insurance benefits until the overpayment interest and associated fees and penalties are paid in full. Iowa Code section 96.5(13). To date, the claimant has failed to pay the outstanding overpayment amount owed, including interest, penalties, and lien fees.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is ineligible for benefits until the balance of the benefits received by the claimant due to misrepresentation, including all penalties, interest, and lien fees are paid in full. Benefits are denied at this time.

Iowa Code section 96.16(4)(a) provides:

4. Misrepresentation.

a. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall, be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

"Fraud" means the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or by the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or the department, shall not act upon it to their, or its, legal injury. Iowa Admin. Code r. 871- 25.1. "Misrepresentation" means to give misleading or deceiving information to or omit material information; to present or represent in a manner at odds with the truth. Iowa Admin. Code r. 871- 25.1.

The undisputed evidence is the claimant participated in an investigatory audit in 2018 which resulted in Iowa Workforce Development establishing an overpayment and imposing a penalty due to misrepresentation/fraud. The claimant did not appeal the decision or inquire about the overpayment or administrative penalty due to fraud/misrepresentation. The decision is final at this time. Therefore, the administrative law judge concludes the claimant has an established overpayment derived from fraud/misrepresentation

Iowa Code section 96.5(13) provides:

Overpayment resulting in disqualification. If the department finds that an individual has received benefits by reason of misrepresentation pursuant to section 96.16, such

individual shall be disqualified for benefits until the balance of the benefits received by the individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

Based on the evidence presented, the administrative law judge concludes the claimant currently owes a balance due to a decision issued on May 2, 2018 which found that the claimant was overpaid benefits and engaged in misrepresentation pursuant to Iowa Code § 96.16(4). Because this fraud balance remains unpaid, the claimant is not eligible for benefits at this time.

Claimant in this matter could not give specific dates as to when he was not in Iowa that might have been used to refute the State's documentation. Inexact statements made with no further proof are weighed against the substantial documentation in the administrative file. Although the State provided no witnesses, as claimant could not provide specific testimony, the State's documentation is deemed more credible.

Note to Claimant: This decision determines you are not eligible for 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 are currently 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 a.

DECISION:

The June 3, 2020 (reference 01) unemployment insurance decision is affirmed. The claimant is ineligible for benefits. Benefits are withheld until the claimant has paid the unpaid fraud overpayment balance, plus penalties, interest, and lien fees, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

July 30, 2020
Decision Dated and Mailed

bab/sam