

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RYAN M ASK
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 23A-UI-10391-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/16/23
Claimant: Appellant (4)

Iowa Code § 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the October 24, 2023 (reference 05) unemployment insurance benefits decision that found he was overpaid unemployment insurance benefits of \$1,048.00 for three weeks between July 16, 2023, and August 26, 2023.

Due notice was issued, and a hearing was scheduled for November 27, 2023. The claimant participated personally. Iowa Workforce Development (IWD) did not participate.

Claimant's Exhibits A, B, and C were admitted. The administrative law judge took official notice of the claimant's administrative records.

ISSUE:

Whether the claimant is overpaid benefits for the weeks between July 16, 2023 and August 26, 2023?

FINDINGS OF FACT:

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

The claimant filed an original claim for unemployment insurance benefits with an effective date of July 16, 2023. His weekly benefit amount that was established by IWD was a gross amount of \$432.00.

He filed a weekly continued claim for the week-ending July 22, 2023, reporting that he had \$0.00 in earnings that week. He was paid \$432.00 in gross unemployment insurance benefits.

He filed a weekly-continued claim for the week-ending July 29, 2023, reporting that he earned \$356.00 in wages. This resulted in him receiving a gross payment of unemployment insurance benefits of \$184.00.

He filed a weekly-continued claim for benefits for the week-ending August 26, 2023, reporting gross earnings of \$0.00. This resulted in him receiving a gross payment of unemployment insurance benefits of \$432.00.

An unemployment insurance benefits decision issued on September 25, 2023 (reference 03) found that the claimant was still employed at the same hours and wages as in his contract of hire effective July 23, 2023, and benefits were denied as of July 23, 2023. That decision was appealed in Appeal No. 23A-UI-10389-DB-T and the decision was affirmed.

As such, claimant is overpaid for any benefits received after July 23, 2023. That includes the benefits received for the week-ending July 29, 2023 (\$184.00) and the week-ending August 26, 2023 (\$432.00).

REASONING AND CONCLUSIONS OF LAW:

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

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.

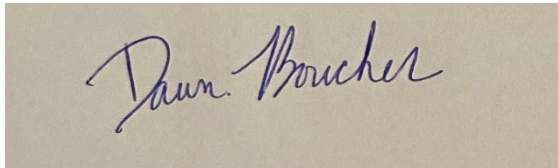
b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged for the overpayment.

In this case, the claimant was denied benefits effective July 23, 2023. The amount of benefits he received prior to that date are not overpaid.

The amount of benefits he received after July 23, 2023 are overpaid and amount to \$616.00 (\$184.00 for the week-ending July 29, 2023 and \$432.00 for the week-ending August 26, 2023).

DECISION:

The unemployment insurance benefits decision dated October 24, 2023 (reference 05) is modified in favor of the appellant/claimant. The claimant is only overpaid unemployment insurance benefits of \$616.00 for the weeks between July 16, 2023 and August 26, 2023. Those benefits must be repaid to the agency. The claimant was not overpaid any benefits for the week-ending July 22, 2023.



Dawn Boucher
Administrative Law Judge

November 29, 2023
Decision Dated and Mailed

db/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
6200 Park Avenue Suite 100
Des Moines, IA 50321
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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

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
6200 Park Avenue Suite 100
Des Moines, IA 50321
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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

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.