

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

VICKIE J CALDWELL
Claimant

IOWA WORKFORCE DEVELOPMENT
Employer

APPEAL 24A-UI-07987-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/21/24
Claimant: Appellant (3)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment

STATEMENT OF THE CASE:

On September 9, 2024, claimant Vickie J. Caldwell filed an appeal from the August 30, 2024 (reference 01) unemployment insurance decision that found she was overpaid \$166.79 in regular unemployment insurance benefits for the one week ending August 10, 2024, due to a failure to report wages earned with KwikTrip. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on September 11, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 10:00 a.m. on Wednesday, September 25, 2024. Claimant Vickie J. Caldwell personally participated. Iowa Workforce Development (IWD) participated through documentation only. Claimant's Exhibits A, B, C, D, and E and IWD Exhibits 1, 2, 3, 4, and 5 were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record to review Caldwell's claim records in the IWD mainframe, including the information available in DBRO and WAGE-A.

ISSUE:

Is claimant Vickie Caldwell overpaid unemployment insurance benefits?
Is claimant Vickie Caldwell totally, partially, or temporarily unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Caldwell opened her claim for benefits effective April 21, 2024. IWD determined her weekly benefit amount at \$374.00, based on combined state and federal wages from two employers in her base period. Of the total benefits, \$167.00 is funded from state wages and \$207.00 is funded from federal wages. Caldwell worked full time for both employers in the base period, and she is ultimately hoping to obtain full-time employment again.

Caldwell works for KwikTrip in a part-time position and earns \$15.00 per hour. During the week of August 5, she went into the store to watch a series of training videos. This took 20.24 hours. (Exhibit 5, page 1) She then took and passed a test covering the content from the videos. Caldwell did not clock in and out during this week, and she did not realize the employer would pay her for this time.

When Caldwell filed her weekly continued claim for the week ending August 10, she did not report that she worked and earned wages. She exhausted her state benefits that week but still received her full benefit amount. Agency records show that of the gross \$374.00 benefits Caldwell received that week, \$166.79 was based on her state wages and \$207.21 was based on her federal wages.

Several weeks later, Caldwell received \$303.60 via direct deposit from KwikTrip. Caldwell spoke with a coworker and the store manager, and they both confirmed that she was paid for her time watching training videos.

IWD issued claimant the August 30, 2024 (reference 01) decision finding she was overpaid her entire \$166.79 payment for the week ending August 10, 2024. IWD compared the amount claimant earned that week -- \$303.60 -- to the amount of state UI benefits she received -- \$166.79 -- in making this determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant has been overpaid due to a failure to report wages earned during the week ending August 10, 2024.

Iowa Code section 96.3(7) states:

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.

Iowa Code section 96.1A(32) provides:

"Regular benefits" means benefits payable to an individual under this or any other state law, including **benefits payable to federal civilian employees** and to former armed forces personnel pursuant to 5 U.S.C. ch. 85, other than extended benefits.

(Emphasis added.)

Iowa Code section 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of

the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

Claimant worked full-time hours during her base period of employment. She has been seeking a full-time position, but she accepted part-time work with KwikTrip in the interim. Under these circumstances, I find claimant may be considered partially unemployed. While not working at "odd jobs" under the strictest definition, she is in part-time employment temporarily. The evidence presented shows she has been a full-time worker and intends to return to full-time employment.

For the benefit week ending August 10, 2024, Caldwell was working for employer KwikTrip. She completed just over 20 hours of training and was compensated for those hours at work. I am sympathetic to Caldwell's misunderstanding about the nature of the time she spent watching the training videos. However, the employer paid her for her time; that time was work time. Caldwell had an obligation to report all wages she earned during that week when she filed her weekly claim that week.

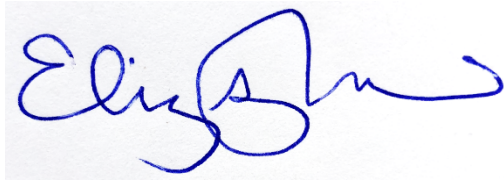
IWD's calculation of claimant's overpayment is correct. IWD used the state UI amount of claimant's weekly benefit amount only when calculating her overpayment. Claimant's total weekly benefit amount is \$374.00, not just the \$167.00 funded from her state wages. Applying the wage-earning limitation rule, claimant may earn \$389.00 (her weekly benefit amount plus \$15.00) before being disqualified for excessive earnings.

As the wage-earnings limitation rule also provides a formula for reducing the weekly benefit amount in accordance with wages received. Claimant could earn up to \$91.00 (25% of the weekly benefit amount) before IWD reduced her weekly benefit amount. Any amount over \$91.00 would be subtracted from the weekly benefit amount. In this case, claimant earned \$303.60—rounded down to \$303.00. Therefore, \$212.00 should be subtracted from the weekly benefit amount. Claimant was eligible for partial benefits of \$162.00 for the week ending August 10, 2024.

Claimant received \$374.00 for the week ending August 10, but she was only eligible for \$162.00. Claimant has been overpaid \$212.00. That amount must be repaid to the agency.

DECISION:

The August 30, 2024 (reference 01) unemployment insurance decision is modified in favor of IWD. Claimant Vickie J. Caldwell has been overpaid in the amount of \$212.00, funded by state and federal wage credits, due to a failure to report wages. She must repay these benefits.



Elizabeth A. Johnson
Administrative Law Judge

September 30, 2024
Decision Dated and Mailed

LJ/jkb

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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 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.

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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 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.

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 adquiriera 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.