

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KARA LOVIK
Claimant

APPEAL NO. 20A-UI-11123-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 04/05/20
Claimant: Appellant (4R)

Iowa Code Section 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

Kara Lovik filed a timely appeal from the September 4, 2020, reference 01, decision that concluded she had been overpaid unemployment insurance benefits in the amount of \$630.00 for the two weeks between April 12, 2020 and April 25, 2020 due to a purported failure to report wages earned with Genesis Health System. After due notice was issued, a hearing was held on October 30, 2020. Ms. Lovik participated in the hearing. Exhibits A through D were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, Request for Adjustment of Benefits dated May 14, 2020, IWD Overpayment status report

ISSUE:

Whether the claimant was overpaid regular benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Kara Lovik is employed by Genesis Health System as a full-time physical therapist. Her hourly wage is \$32.31. Ms. Lovik usually works a 40-hour work week.

During the week that ended April 11, 2020, Ms. Lovik worked the 30 hours Genesis had for her and used 10 hours of paid time off (PTO). Her total wages for the week were \$1,292.40.

During the weeks that ended April 18 and April 25, 2020, Genesis did not have work for Ms. Lovik, due to a low patient census. Genesis made no payments to Ms. Lovik for those two weeks and Ms. Lovik had no earnings for those two weeks. Ms. Lovik has provided a memo from the employer that specifically states the employer had not work for Ms. Lovik during these two weeks.

During the week that ended May 2, 2020 and the week that ended May 9, 2020, Ms. Lovik worked 30 hours, for which she earned and was paid \$969.30. Ms. Lovik did not receive an additional compensation for those weeks.

Ms. Lovik established original claim for benefits that was effective April 5, 2020. Iowa Workforce Development set Ms. Lovik's weekly benefit amount for regular benefits at \$481.00.

For the week that ended April 11, 2020, Ms. Lovik reported \$1,288.00 in wages and received no unemployment insurance benefits. Her actual wages were \$1,292.40.

For the weeks that ended April 18 and 25, 2020, Ms. Lovik reported that she had no wages. For each week, Iowa Workforce Development paid Ms. Lovik \$481.00 in regular benefits and \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits.

For the week that ended May 2, 2020, Ms. Lovik reported \$700.00 in wages and initially received no unemployment insurance benefits. The actual wages were \$969.30. Iowa Workforce Development somehow got the idea Ms. Lovik's wages for the week were only \$274.00 and ended up approving Ms. Lovik for \$274.00 for the week. Payment of regular benefits for the week that ended May 2, 2020 triggered payment of \$600.00 in FPUC benefits for the week.

For the week that ended May 9, 2020, Ms. Lovik initially reported \$655.00 in wages and initially received no unemployment insurance benefits. On or about July 31, 2020 Ms. Lovik spoke to a Workforce Development representative and reported that she earned \$755.00 for the week that ended May 9, 2020. The actual wages were \$969.30. Iowa Workforce Development somehow got the idea Ms. Lovik's wages for the week were only \$274.00 and ended up approving Ms. Lovik for \$274.00 for the week. Payment of regular benefits for the week that ended May 9, 2020 triggered payment of \$600.00 in FPUC benefits for the week.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Iowa Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Ms. Lovik is not overpaid wages for the weeks that ended April 18 and 25, 2020. Ms. Lovik correctly reported that she had zero wages for each of those weeks. Ms. Lovik was eligible for the \$481.00 in regular benefits she received for each of those weeks, provided she met all other eligibility requirements.

Ms. Lovik earned too much money, \$969.30, during the week that ended May 2, 2020 and again during the week that ended May 9, 2020 to be eligible for benefits for either week. IWD erroneously recalculated Ms. Lovik's eligibility for those two weeks and erroneously concluded that Ms. Lovik was eligible for \$274.00 reduced regular benefits for each week. This resulted in a \$548.00 "overpayment" for the two-week period of April 26, 2020 through May 9, 2020. It also led to \$1,200.00 in additional FPUC being erroneously paid for the two-week period of April 26, 2020 through May 9, 2020.

DECISION:

The September 4, 2020, reference 01, decision is modified in favor of the claimant as follows. The claimant was not overpaid benefits for the two-week period of April 12-25, 2020. However, through IWD error, the claimant was "overpaid" \$548.00 in regular benefits for the two week period of April 26, 2020 through May 9, 2020. The Agency may be able to recover this overpayment through an accounting adjustment that includes returning the eligibility for the weeks ending May 2 and May 9, 2020 to zero and undoing the offset. This matter is **remanded** to the Benefits Bureau for further action regarding the \$548.00 "overpayment" of regular benefits for the two week period of April 26, 2020 through May 9, 2020. This matter is also **remanded** for entry of an overpayment decision regarding the \$1,200.00 in FPUC benefits paid to the claimant for the two weeks between April 26, 2020 and May 9, 2020. In light of the decision allowing regular benefits for the two-week period of April 12-25, 2020, there should be no need for an FPUC overpayment decision for that particular two-week period.

The claimant is hereby reminded of the requirement to accurately report gross wages for the week during which the wages were earned.



James E. Timberland
Administrative Law Judge

November 3, 2020
Decision Dated and Mailed

jet/scn