

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**BRENDA PROBASCO**  
Claimant

**DAVIS DENTAL PC**  
Employer

**APPEAL 22A-UI-08038-JD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20**  
**Claimant: Appellant (2 )**

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Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.1A(37) – Total & Partial Unemployment  
Iowa Code § 96.5(5) – Other Compensation

**STATEMENT OF THE CASE:**

On March 29, 2022, Brenda Probasco (claimant/appellant) filed an appeal from the March 21, 2022, reference 01, unemployment insurance decision that concluded she was overpaid benefits due to incorrectly reported wages for the week ending May 4, 2020. A telephone hearing was held at on May 12, 2022 pursuant to due notice. The claimant, Brenda Probasco, participated and testified. The employer Davis Dental, PC, participated through Office Manager Twyla Hulme. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did the claimant incorrectly report wages while claiming benefits?

If so, is she overpaid unemployment insurance benefits as a result?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant's weekly benefit amount (WBA) is \$481.00. The total gross wages for the one-week ending April 4, 2022, was \$0.00. She reported gross wages of \$0.00 and was paid \$481.00 in gross benefits for that week. The employer stated that the wage record that was submitted to IWD that reflected the claimant was paid \$1,155.00 for the one-week period ending May 4, 2020, was not correct and the claimant was not paid any gross wages for that time period. The claimant was entitled to her WBA of \$481.00 for the week ending May 4, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge finds that the claimant was not paid any gross wages for the week ending May 4, 2020, and she was entitled to the \$481.00 weekly benefit amount she received for that benefit week.

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.

Since claimant did not earn wages for the week in question, there was no overpayment of benefits.

**DECISION:**

The March 21, 2022, reference 01, unemployment insurance decision is reversed. Claimant did not earn wages for the week in question and was not overpaid unemployment insurance benefits for the week ending May 4, 2020.



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Jason Dunn  
Administrative Law Judge  
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June 3, 2022  
Decision Dated and Mailed

jd/kmj