

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ZACH W NEWELL**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 21A-UI-07332-B2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/21/21  
Claimant: Appellant (4)**

Iowa Code § 96.5(13) – Disqualification due to Outstanding Fraud Overpayment  
Iowa Code § 96.16(4) – Offenses and Misrepresentation

**STATEMENT OF THE CASE:**

The claimant/appellant, Newell, filed an appeal from the March 2, 2021 (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 May 20, 2021. The claimant, Newell, participated personally. Claimant’s exhibit A was admitted. 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 January 25, 2015. 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.

Consequently, a decision was issued on May 27, 2015 which found that the claimant was overpaid benefits of \$1,022.00, including interest and a 15% penalty due to fraud. (Department Exhibit 2) The claimant did not appeal the decision and it became final.

The claimant then established a claim with an effective date of February 21, 2021. 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).

On March 10, 2021 claimant received notice that \$1,192.96 of his 2020 income tax refund was being sent to IWD to address the unpaid fraud amount still owing. Said payment appears to have settled the entire unpaid fraud overpayment.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is eligible for benefits as of March 10, 2021 as this is the date IWD was to have been sent the amount to completely settle the unpaid fraud balance.

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 2015 which resulted in Iowa Workforce Development establishing an overpayment and imposing a penalty due to misrepresentation/fraud (Department Exhibit 1). 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.

The claimant presented credible evidence that this overpayment balance was paid off on March 10, 2021.

Based on the evidence presented, the administrative law judge concludes the claimant currently owes a balance of \$0.00. Because this balance has been paid off, claimant is eligible to receive unemployment benefits as of March 10, 2021

**DECISION:**

The March 2, 2021 (reference 01) unemployment insurance decision is modified in favor of the claimant. Claimant is deemed to have entirely repaid the fraud overpayment balance owing as of March 10, 2021 and claimant is eligible to receive unemployment benefits filed for after that date, so long as claimant is otherwise eligible to receive the benefits.



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Blair A. Bennett  
Administrative Law Judge

May 28, 2021  
Decision Dated and Mailed

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