

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEANNA J BERCHENBRITER
Claimant

APPEAL 20A-UI-02854-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20
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, Deanna J. Berchenbriter, filed an appeal from the March 25, 2020 (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 8, 2020. The claimant participated personally. IWD Investigation and Recovery Unit elected to participate by writing only. Department’s Exhibits 1-3 were admitted. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

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 August 7, 2011. An investigatory audit was conducted regarding the claimant’s failure to report all wages while concurrently filed weekly continued claims for benefits. Consequently, a decision was issued on July 24, 2013, which found that the claimant was overpaid benefits of \$3,184.72, and a 15% penalty due to fraud. (Department Exhibit D1). The claimant did not appeal the decision and it became final.

The claimant then established a claim with an effective date of March, 2020. The claimant paid the outstanding overpayment amount owed, including interest, penalties, and lien fees on April 7, 2020. The current outstanding balance owed is \$0.00 (Department Exhibit D2). Benefits on weekly claims were paid after the balance was paid in full.

REASONING AND CONCLUSIONS OF LAW:

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

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.

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.

Iowa Workforce Development established an overpayment and imposed a penalty due to misrepresentation/fraud (Department Exhibit D1). The claimant did not appeal the decision. The decision is final at this time. As such, the claimant was ineligible for benefits due to an unpaid fraud overpayment balance from March 15, 2020 through April 6, 2020. Benefits are allowed effective April 7, 2020 following her payment in full, provided she is otherwise eligible.

DECISION:

The March 25, 2020 (reference 01) unemployment insurance decision is modified in favor of the claimant. The claimant is ineligible for benefits from March 15, 2020 through April 6, 2020 due to an unpaid fraud overpayment balance. Benefits are allowed effective April 7, 2020, provided claimant is otherwise eligible.



Jennifer L. Beckman
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May 15, 2020
Decision Dated and Mailed

jlb/scn