

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TIMOTHY BASTIAN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO. 21A-UI-01872-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (4)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On December 29, 2020, Timothy Bastian (claimant/appellant) appealed the December 23, 2020 (reference 05) decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,794.00 for the 13 weeks between March 22, 2020 and June 20, 2020, as a result of a disqualification decision dated December 22, 2020.

A telephone hearing was held on February 24, 2021. The parties were properly notified of the hearing. Claimant participated personally and was represented by his daughter, Jessica Bellinger. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant overpaid regular, state unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The unemployment insurance system shows claimant has received weekly benefits in the amount of \$138.00 for a total of 13 weeks, from the benefit week ending March 28, 2020 and continuing through the benefit week ending June 20, 2020. The total amount of benefits paid to date is \$1,794.00.

Claimant was subsequently determined to be ineligible for benefits as of June 7, 2020 in a decision dated July 8, 2020. That decision has now been affirmed. See 21A-UI-01871-AD-T. Claimant received a total of \$238.00 in benefits after June 7, 2020.

The administrative law judge notes there is no disqualification decision dated December 22, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the December 23, 2020 (reference 05) decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,794.00 for the 13 weeks between March 22, and June 20, 2020 is MODIFIED in favor of appellant.

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.

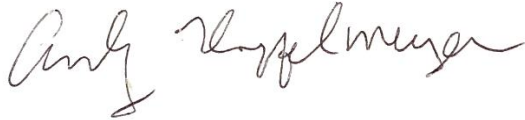
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Claimant was subsequently determined to be ineligible for benefits as of June 7, 2020 in a decision dated July 8, 2020. That decision has now been affirmed. See 21A-UI-01871-AD-T. Claimant received a total of \$238.00 in benefits after June 7, 2020. Because claimant received \$238.00 in benefits which he was subsequently determined to be ineligible for, he has been overpaid in that amount.

The administrative law judge notes there is no disqualification decision dated December 22, 2020. As such, the decision appealed appears to have been entered at least partially in error. However, claimant is ineligible for benefits after June 7, 2020 and was therefore overpaid in a lesser amount.

DECISION:

The December 23, 2020 (reference 05) decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,794.00 for the 13 weeks between March 22, and June 20, 2020 is MODIFIED in favor of appellant. Claimant has been overpaid benefits in the amount of \$238.00.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

March 4, 2021
Decision Dated and Mailed

abd/lj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.