

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

TERRI L VAN GUNDY
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 22A-UI-14350-DH-T

**AMENDED
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/26/20
Claimant: Appellant (1R)**

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

STATEMENT OF THE CASE:

Ms. Terri Van Gundy, claimant/appellant, appealed from the July 1, 2022, (reference 04) unemployment insurance decision that found claimant was overpaid \$4,310.00 in regular unemployment benefits for 10 weeks between 04/26/20 and 07/04/20 due to decision (reference 01) disqualifying claimant as not being able and available to work. Notices of hearing were mailed to Claimant's last known address of record for a telephone hearing scheduled for August 4, 2022, at 2:10PM. The department did not participate. Claimant personally participated. The following hearings were held together as part of a consolidated hearing: Appeals 22A-UI-14348-DH-T; 22A-UI-14349-DH-T; 22A-UI-14350-DH-T; and 22A-UI-14351-DH-T. Judicial notice was taken of the administrative record, and DBIN.

On 12/05/22, a decision was mailed to the above-named parties. The undersigned addressed the benefit week of July 3-11, 2022, but since that week was not covered by the decision being appealed from there was no jurisdiction to address that week. This amended decision corrects that issue by removing the discussion of that week. This does alter the substance of the decision from a 4 (modified in favor of appellant) to a 1R (affirm and remand).

ISSUE:

Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the undersigned finds:

In companion case 22A-UI-14348-DH-T, the decision finding claimant was disqualified from benefits as of 04/26/20 was kept in place as the appeal was not timely filed and was dismissed.

Claimant filed a claim for benefits with an original claim date of 04/26/20. Claimant has a weekly benefit amount of \$481.00. Claimant was paid regular unemployment benefits in the amount of \$4,310.00 over 10 weeks between 04/26/20 and 07/04/20. Claimant was disqualified from benefits from between 04/26/20 and 07/04/20. Any benefits paid for this time frame claimant should not have received.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid regular unemployment benefits. For the reasons set forth below, it is determined claimant was overpaid \$4,310.00 in regular unemployment benefits for 10 weeks between 04/26/20 and 07/04/20.

Iowa Code § 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.

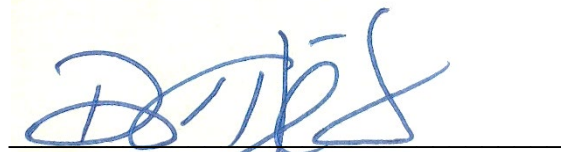
Companion case 22A-UI-14348-DH-T, kept in place the decision finding claimant was disqualified from benefits as of 04/26/20, as the appeal was not timely filed and was dismissed. In the finding of facts section of said companion case, claimant was found to have been too sick to perform any work from April 26, 2020, through June 6, 2020, and failed to work the major portion of the work week due to being too sick to work from June 7, 2020, through July 4, 2020. Since claimant is disqualified from benefits from April 26, 2020, through July 4, 2020, any benefits she received in this timeframe would be an overpayment. Claimant received \$4,310.00 in regular unemployment benefits for 10 weeks between 04/26/20 and 07/04/20, which was an overpayment.

DECISION:

The July 1, 2022, (reference 04) unemployment insurance decision finding claimant was overpaid \$4,310.00 in regular unemployment benefits for 10 weeks between 04/26/20 and 07/04/20 is **AFFIRMED**.

REMAND:

This matter is remanded to the benefits bureau for investigation and a decision with appeal rights regarding whether claimant was able and available for work for the benefit week ending 07/11/20.



Darrin T. Hamilton
Administrative Law Judge

December 7, 2022
Decision Dated and Mailed

scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.