

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**AARON P WHITE**  
Claimant

**APPEAL 22A-UI-04875-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/09/22  
Claimant: Appellant (1)**

---

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.5(8), 96.16(4) – Administrative Penalty & Misrepresentation  
Iowa Admin. Code r. 871-25.1, 25.9 – Definitions & Administrative Penalties

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the February 10, 2022 (reference 02) unemployment insurance decision that disqualified claimant from receiving benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 31, 2022. Claimant participated. Iowa Workforce Development (IWD) participated through Sean Clark, Investigator II. Department's Exhibits 1 – 5 were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant was overpaid benefits.  
Whether claimant is able to and available for work.  
Whether a penalty was properly imposed.

**FINDINGS OF FACT:**

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

On December 5, 2019, IWD issued a decision (reference 02) finding that claimant was overpaid benefits in the net amount of \$6,899.09 between April 16, 2017 and June 22, 2019, because he incorrectly reported earnings from Heartland Asphalt. (Exhibit 2-4) Because claimant misrepresented facts in order to receive benefits, IWD assessed a 15% penalty and an administrative penalty for the 36 calendar months following the last week of misrepresentation. (Exhibit 2-4) The decision remains in effect. Claimant's final misrepresentation occurred in the benefit week ending June 22, 2019, when he reported zero wages but earned \$1,304.00. (Exhibit 3-5) Claimant's misrepresentation included reporting zero income on 14 weekly claims when he earned weekly wages of more than \$900.00. (Exhibits 3-1 – 3-5)

Claimant filed an initial claim for benefits effective January 9, 2022, which triggered a review of whether claimant should be disqualified from future benefits due to a fraud committed in the prior 36 months. On February 1, 2022, IWD sent claimant a letter informing him of IWD's intent

to disqualify him from receiving benefits because of prior false statements or misrepresentations. (Exhibit 2-1) Claimant responded to the letter acknowledging that what he did was wrong and requesting that the administrative penalty be waived; claimant stated that he has learned his lesson, he repaid the overpayment and penalty, and he has not received unemployment benefits for the last two winters when he was laid off. (Exhibit 1-1)

The Unemployment Insurance Claimant's Handbook defines fraud and outlines the penalties for fraudulently collecting benefits. (Exhibit 2-3) One of the penalties is "denial of benefits by administrative penalty, meaning you will be ineligible to receive future unemployment insurance benefits for anywhere from four weeks to the end of your benefit year, even after an overpayment and penalty is paid in full." (Exhibit 2-3) IWD's Investigation and Recovery Procedural Manual provides that an administrative penalty should disqualify a claimant from receiving benefits for the remainder of the benefit year if the claimant misrepresented nine or more weeks of claims. (Exhibit 2-3)

On February 10, 2022, Clark issued a decision (reference 02) disqualifying claimant from receiving unemployment insurance benefits for the remainder of his January 9, 2022 claim year as an administrative penalty for the claimant's prior false statements from April 16, 2017 through June 22, 2019.

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

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

Iowa Code section 96.3(7)(a) provides:

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.

Iowa Code section 96.5(8) provides:

8. *Administrative penalty.* If the department finds that, with respect to any week of an insured worker's unemployment for which such person claims credit or benefits, such person has, within the thirty-six calendar months immediately preceding such week, with intent to defraud by obtaining any benefits not due under this chapter, willfully and knowingly made a false statement or misrepresentation, or willfully and knowingly failed to disclose a material fact; such person shall be disqualified for the week in which the department makes such determination, and forfeit all benefit rights under the unemployment compensation law for a period of not more than the remaining benefit period as determined by the department according to the circumstances of each case. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter.

Iowa Code section 96.16(4) 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.

b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph "a" and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

Iowa Admin. Code r. 871-25.1 provides:

*"Administrative penalty"* means the disqualification of a claimant from the receipt of benefits due to fraud or misrepresentation or the willful and knowing failure to disclose a material fact for a period of not more than the remaining benefit year, including the week in which such determination is made.

...

*"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.

...

*"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. 871-25.9 provides, in pertinent part:

**25.9(1)** When, subsequent to the filing of a valid claim, it has been determined that within the preceding 36 calendar months the claimant fraudulently reported or failed to report wages earned during a week, or failed to disclose a material fact upon separation from employment from such claimant's most recent employing unit or employer, with intent to obtain benefits, or failed to disclose a material fact concerning any claimant's ability to work, availability for work, or any other eligibility requirements, with intent to obtain benefits, such claimant shall forfeit all unemployment insurance benefits for the week in which the determination is made and for a period of not more

than such claimant's remaining benefit year.

**25.9(2) Penalties.**

a. Any penalties imposed by this rule shall be in addition to those imposed by Iowa Code section 96.16.

b. The general guide for disqualifications for deliberate falsification for the purpose of obtaining or increasing unemployment insurance benefits is listed below. It is intended to be used as a guide only and is not a substitute for the personal subjective judgment of the investigator because each case must be decided on its own merits. The administrative penalty recommended for falsification ranges from three weeks through the end of the benefit year. The department shall also consider the filing of fraud charges whenever an administrative penalty is imposed against a claimant. If the same offense is repeated, loss of benefits through the end of the benefit year will result.

c. The department shall issue a determination which sets forth the specific penalty being applied.

(1) The degree and severity of penalty shall be determined at the discretion of the investigator and shall be based upon the nature of the offense and the facts.

(2) The determination shall be based on the facts obtained and shall become final within ten days after the decision was mailed to the claimant's last-known address, unless an appeal is made to the department by the filing of a notice of appeal at any office of the department of workforce development. Timeliness shall be determined by postmark within ten calendar days from the date of mailing shown on the decision or be received by the department within ten calendar days from the date of mailing.

The agency is required to issue an administrative penalty disqualifying a claimant from receiving benefits when there is a finding of fraud in the prior 36 months. The duration of the disqualification depends upon the extent of the claimant's misrepresentation.

In this case, claimant filed an initial claim for benefits effective January 9, 2022. Claimant's final act of misrepresentation occurred during the benefit week ending June 22, 2019, which is within thirty-six calendar months of the current claim. Claimant misrepresented more than nine weeks of claims. Therefore, the administrative penalty was properly imposed. Benefits are denied from February 6, 2022 through January 7, 2023.

**DECISION:**

The February 10, 2022 (reference 02) unemployment insurance decision is affirmed. The administrative penalty was properly imposed. Benefits are denied from February 6, 2022 through January 7, 2023.



---

Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

April 11, 2022  
Decision Dated and Mailed

acw/ACW