

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SERGIO BANUELOS
Claimant

APPEAL NO. 21A-UI-14758-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS & RECOVERY**

**OC: 06/13/21
Claimant: Appellant (1)**

Iowa Code Sections 96.16(4) & 96.5(13) – Unpaid Fraud Overpayment Balance

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 18, 2021, reference 02, decision that denied benefits, based on the Agency determination that the claimant has an unpaid fraud overpayment balance. After due notice was issued, a hearing was held on August 23, 2021. Claimant participated. Exhibit A and Department Exhibits 1-1 through 2-4 were received into evidence. Department Exhibit 3-1 is a confidential record under federal law and was not received into evidence. The administrative law judge took official not the Agency administrative overpayment status record reflecting an outstanding unpaid balance of \$115.00.

ISSUE:

Whether the claimant is ineligible for benefits based on an unpaid fraud overpayment balance.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective June 13, 2021. An April 7, 2010 (reference 05) decision held the claimant was overpaid \$434.00 for the week that ended October 24, 2009, based on the claimant's failure to report wages from Farmland Foods, Inc. The reference 05 decision was based on Iowa Code section 96.16(4), fraud/misrepresentation. Iowa Workforce Development records indicate a \$115.00 remaining unpaid fraud overpayment balance.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code 96.3(7)(a) provides:

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 96.16(4)(a) and (b) provides:

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 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 is not eligible for benefits in connection with the June 13, 2021 original claim because the claimant has a \$115.00 remaining unpaid fraud overpayment balance. The claimant must repay the remaining unpaid fraud overpayment amount before he can be considered for benefits. The claimant must meet all other eligibility requirements.

DECISION:

The June 18, 2021, reference 02, decision is affirmed. The claimant is not eligible for benefits in connection with the June 13, 2021 original claim because the claimant has a \$115.00 remaining unpaid fraud overpayment balance. The claimant must meet all other eligibility requirements.

A rectangular box containing a handwritten signature in black ink that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

August 26, 2021
Decision Dated and Mailed

jet/kmj