

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COURTNEY C GRAHAM
Claimant

APPEAL 21A-UI-01159-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 11/22/20
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:

On December 7, 2020, Courtney C. Graham (claimant/appellant) filed an appeal from the November 25, 2020, reference 01, 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 February 20, 2021. The claimant participated personally. Iowa Workforce Development (IWD) participated through written documents in lieu of witness testimony. 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 effective May 17, 2015. During that claim year, an investigatory audit was conducted regarding the claimant's failure to report all wages while concurrently filing weekly claims for benefits. Consequently, a decision was issued on January 7, 2016, which found that the claimant was overpaid \$416.00 in benefits, including interest and a 15% penalty due to fraud. The claimant did not appeal the decision and it became final.

The claimant then established a claim with an effective date of November 22, 2020. Effective July 1, 2018, a claimant with an overpayment by reason of misrepresentation is disqualified to receive unemployment insurance benefits until the overpayment interest and associated fees and penalties are paid in full. Iowa Code section 96.5(13). The claimant still had a balance when she filed the claim, but paid off the overpayment on December 7.

On January 27, 2021, IWD issued an unemployment insurance decision, reference 02, which found the claimant was disqualified from receiving benefits due to her separation from Cellco Partnership.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is ineligible for benefits from November 22 through December 5, 2020, before the balance of the benefits received by the claimant due to misrepresentation, including all penalties, interest, and lien fees were paid in full. The claimant paid the balance on December 7. Benefits are allowed effective December 6, provided the claimant is otherwise eligible.

Iowa Code section 96.16(4) provides:

Offenses.

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, in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under this chapter or 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.

"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. Iowa Admin. Code r. 871- 25.1. "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- 25.1.

IWD established an overpayment and imposed a penalty due to misrepresentation/fraud. The claimant did not appeal the decision. The decision is final at this time. Therefore, the administrative law judge concludes the claimant had an established overpayment derived from fraud/misrepresentation when she filed for benefits in her current claim year.

Iowa Code section 96.5(13) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

13. 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 paid the balance related to misrepresentation on December 7, 2020. She is not eligible for benefits from November 22 through December 5, before she paid off the balance. She is eligible for benefits effective December 6, provided she meets the other eligibility requirements.

DECISION:

The November 25, 2020, reference 01, unemployment insurance decision is modified in favor of the appellant. The claimant is ineligible for benefits from November 22 through December 5, before she paid off her fraud overpayment balance. She is eligible for benefits on this basis effective December 6, 2020. However, no benefits will be paid at this time, as she is currently disqualified on her separation.



Stephanie R. Callahan
Administrative Law Judge

March 2, 2021
Decision Dated and Mailed

src/mh