

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

JACKIE L PEIFFER
Claimant

APPEAL NO. 22R-UI-13978-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code Section 96.3(7) – Overpayment, Lost Wages Assistance Payments

STATEMENT OF THE CASE:

This matter is before the administrative law judge pursuant to an Employment Appeal Board remand in Hearing Number 22B-UI-04497 for a decision on the merits of the appeal. On February 14, 2022, Cynthia Peiffer, legal guardian for Jackie Peiffer (claimant) filed an appeal from the November 3, 2021 (reference 05) decision that held Jackie Peiffer was overpaid \$1,200.00 in Lost Wages Assistance Payments for four weeks between July 26, 2020 and August 22, 2020, due to the February 8, 2021 (reference 02) decision that denied benefits for that period pursuant to the between academic terms disqualification provision set forth at Iowa Code section 96.4(5). The Employment Appeal Board has deemed the appeal timely. After due notice was issued, a hearing was held on March 23, 2022. Claimant's legal guardian, Ms. Peiffer, participated. The claimant did not participate. There were five appeal numbers set for a consolidated hearing: 22A-UI-04496-JT-T, 22A-UI-04497-JT-T, 22A-UI-04499-JT-T, 22A-UI-04500-JT-T, and 22A-UI-04501-JT-T. Exhibit A, the online appeal, was received into evidence. The administrative law judge took official notice of the guardianship and conservatorship established in Calhoun County Case Number GCPRO12425. The administrative law judge took official notice of the reference 01 through reference 06 decisions. The administrative law judge took official notice of the record of benefits disbursed to the claimant (DBRO, KPYX and KPY1). The administrative law judge took official notice of the claimant's quarterly wages (WAGE-A) and of the employer's letter dated June 25, 2021 (attached to reference 01 supplemental documents). The administrative law judge took official notice of the IWD decision docketing records (NMRO).

Pursuant to the Employment Appeal Board remand, the Appeals Bureau has assigned new Appeal Numbers: 22R-UI-13975-JT-T, 22R-UI-13976-JT-T, 22R-UI-13977-JT-T, 22R-UI-13978-JT-T, and 22R-UI-13979-JT-T.

ISSUE:

Whether the claimant was overpaid \$1,200.00 in Lost Wages Assistance Payments for four weeks between July 26, 2020 and August 22, 2020, due to the February 8, 2021 (reference 02) decision that denied benefits for that period pursuant to the between academic terms disqualification provision set forth at Iowa Code section 96.4(5).

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jackie Peiffer is the claimant. Jackie Peiffer is an adult person with an intellectual disability characterized as moderate. Jackie Peiffer is unable to read or write. Jackie Peiffer shares an apartment in Carroll with another adult with disabilities. Jackie Peiffer receives home and community based support that includes five hours of supervised help with activities of daily living and additional day-program assistance. Jackie Peiffer's parents, Cynthia Peiffer and Duane Peiffer, are Jackie Peiffer's legal guardians. Cynthia and Duane Peiffer reside in Fonda, Iowa, about 36 miles from Jackie Peiffer's home in Carroll.

The claimant's mother and legal guardian, Cynthia Peiffer, established an original claim for the claimant that was effective March 29, 2020. Iowa Workforce Development set Jackie Peiffer's weekly benefit amount for regular benefits at \$118.00. IWD paid \$118.00 in weekly regular benefits for each of the weeks between March 29, 2020 and August 22, 2020. The regular benefits disbursed to Jackie Peiffer included \$1,534.00 in regular benefits paid for the 13 weeks between May 24, 2020 and August 22, 2020. IWD also paid \$600.00 in weekly Federal Pandemic Unemployment Compensation (FPUC) for each of the weeks between March 29, 2020 and July 25, 2020. The FPUC benefits disbursed to Jackie Peiffer included \$5,400.00 in FPUC benefits for the nine weeks between May 24, 2020 and July 25, 2020. IWD also paid Jackie Peiffer \$300.00 in weekly Lost Wages Assistance Payments (LWAP) for each of the four weeks between July 26, 2020 and August 22, 2020. The LWAP benefits totaled \$1,200.00. All benefits were direct-deposited to a bank account.

On February 8, 2021, Iowa Workforce Development Benefits Bureau entered a reference 02 decision that denied benefits effective May 24, 2020, based on the between academic terms disqualification provision set forth at Iowa Code section 96.3(7). The reference 02 decision has been affirmed in Appeal Number 22R-UI-13975-JT-T.

REASONING AND CONCLUSIONS OF LAW:

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.

Because the reference 02 decision disqualified the claimant for benefits for the period beginning May 24, 2020 and has been affirmed on appeal, the \$1,200.00 in Lost Wages Assistance Payments the claimant received for four weeks between July 26, 2020 and August 22, 2020 is an overpayment of benefits. The claimant must repay the overpaid LWAP benefits unless the claimant applies for and is approved for waiver of repayment of LWAP benefits. See below.

DECISION:

The November 3, 2021 (reference 05) decision is AFFIRMED. The claimant was overpaid \$1,200.00 in Lost Wages Assistance Payments for four weeks between July 26, 2020 and August 22, 2020, due to the February 8, 2021 (reference 02) decision that denied benefits between academic terms. The claimant must repay the overpaid LWAP benefits unless the claimant applies for and is approved for waiver of repayment of LWAP benefits. See below.



James E. Timberland
Administrative Law Judge

September 23, 2022
Decision Dated and Mailed

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Note to Claimant: This decision determines you have been overpaid LWAP benefits. If you disagree with this decision, you may file an appeal by following the instructions on the final page of this decision. Additionally, instructions for requesting a waiver of this LWAP overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a LWAP waiver, you will have to repay the FPUC benefits you received.

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>.

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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.