

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CARISSA MARSHALL**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 23A-UI-06762-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20  
Claimant: Appellant (2)**

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PL 116-136, Sec. 2104(f) – Federal Pandemic Unemployment Compensation Waiver  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

Carissa Marshall, the claimant/appellant,<sup>1</sup> filed an appeal from the Iowa Workforce Development (IWD) June 29, 2023 (reference 04) unemployment insurance (UI) decision. The decision denied Ms. Marshall's application to waive a Federal Pandemic Unemployment Compensation (FPUC) overpayment in the gross amount of \$3,000.00 because IWD concluded that she did not properly report her wages when she filed weekly UI claims. On July 11, 2023, the Iowa Department of Inspections, Appeals, and Licensing, UI Appeals Bureau mailed a notice of hearing to Ms. Marshall for a telephone hearing scheduled for July 25, 2023.

The undersigned administrative law judge held a telephone hearing on July 25, 2023. Ms. Marshall participated personally. The undersigned took official notice of the administrative record.

**ISSUE:**

Should Ms. Marshall's FPUC overpayment be waived?

**FINDINGS OF FACT:**

Having reviewed all the evidence in the record, the undersigned finds: Ms. Marshall filed an initial claim for REGULAR (state) UI benefits effective March 22, 2020. Ms. Marshall filed her UI claim because her second job at Cline Charitable Trust Management dba Lucile's Steak and Spirits laid her off due to the COVID-19 pandemic. Ms. Marshall also worked as a teacher for the Centerville Community School District. This employer closed but continued to pay Ms. Marshall.

Ms. Marshall called IWD three times, waited on hold for hours, and when she was finally able to speak with an IWD representative she specifically asked if she needed to report her wages from her teaching job. The IWD representative told Ms. Marshall that she did not need to report her wages from her teaching job; she only needed to report her wages from her second employer. Ms. Marshall followed the IWD representative's direction.

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<sup>1</sup> Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

In relevant part, Ms. Marshall filed weekly claims for 10 weeks between December 27, 2020 and March 6, 2021. She reported wages from her second job only. Ms. Marshall provided IWD with all of the information she believed she needed to provide when she submitted her initial application and when she filed her weekly UI claims.

Based on the wages she reported, IWD paid Ms. Marshall REGULAR (state) UI benefits and FPUC benefits for these 10 weeks. IWD paid Ms. Marshall FPUC benefits in the gross amount of \$300.00 each week for these 10 weeks for a total of \$3,000.00 (\$300.00 X 10). IWD did so because it made a policy decision, given the global COVID-19 pandemic, to send claimants who filed an initial UI claim and weekly claims UI benefits even if IWD had not yet decided if claimants were eligible for these benefits. At the time IWD sent Ms. Marshall REGULAR (state) UI benefits and FPUC benefits, it had not yet decided if she was eligible for these benefits.

FPUC was a program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 that provided additional payment to those individuals who were receiving state or federal UI payments. It was funded by the federal government, not by state unemployment taxes paid by employers. The Continued Assistance for Unemployed Workers Act of 2020, and American Rescue Act of 2021 extended FPUC benefits for weeks of unemployment to September 6, 2021. The FPUC amount was \$300.00 per week from December 27, 2020 through September 5, 2021. Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the FPUC program, effective June 12, 2021.

Over two years after she filed her initial UI claim, and a year after IWD had last sent her UI benefits, IWD mailed Ms. Marshall two non-fraud overpayment UI decisions. The April 21, 2022 (reference 01) UI decision concluded that IWD overpaid Ms. Marshall REGULAR (state) UI benefits in the total gross amount of \$3,941.00 for 10 weeks between December 27, 2020 and March 6, 2021 because IWD concluded that she did not report or incorrectly reported wages from employer Centerville Comm Sch Dist. The April 21, 2022 (reference 02) UI decision concluded that IWD overpaid Ms. Marshall FPUC benefits in the total gross amount of \$3,000.00 for the same 10 weeks because IWD concluded that she did not report or incorrectly reported wages from employer Centerville Comm Sch Dist. Ms. Marshall did not appeal either of these decisions.

Instead, Ms. Marshall applied for a waiver of the \$3,000.00 FPUC overpayment. On November 1, 2022, IWD mailed Ms. Marshall a decision denying her application to waive the FPUC overpayment because IWD concluded she did not properly report her wages when she filed weekly UI claims. Ms. Marshall did not appeal this decision.

On March 2, 2023, IWD mailed Ms. Marshall another UI decision. This decision, a reference 03 decision, informed Ms. Marshall that IWD was withholding her Iowa income tax refund, including a \$7.00 transfer fee from the Iowa Department of Administrative Services (DAS), to pay off an overpayment of UI benefits she owes to IWD. Ms. Marshall did not appeal this decision. IWD withheld Ms. Marshall's Iowa income tax refund and Ms. Marshall made one payment, so her remaining REGULAR (state) UI benefit overpayment balance is \$3,472.00.

Ms. Marshall applied for a waiver of the FPUC overpayment for a second time. IWD denied her second waiver application for the same reason as the first denial - IWD concluded that Ms. Marshall did not properly report her wages when she filed weekly UI claims. This decision addresses Ms. Marshall's appeal of the second denial.

Ms. Marshall's household is made up of two adults and two children. Ms. Marshall's gross monthly household income is about \$6,500.00. After Ms. Marshall's household pays its monthly bills about \$2,000.00 is left over. Ms. Marshall has about \$1,500.00 in savings.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the undersigned concludes that IWD's payment of FPUC benefits to Ms. Marshall was without fault on the part of Ms. Marshall, and the entirety of the \$3,000.00 FPUC overpayment is waived.

The CARES Act, as outlined below, provides that a State agency may waive repayment of an overpayment in certain circumstances.

PL 116-136, SEC. 2104 provides:

**EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.**

**(f) Fraud and Overpayments.--**

(1) In general.--If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual--

(A) shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that--

(A) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual; and

(B) such repayment would be contrary to equity and good conscience.

(3) Recovery by state agency.--

(A) In general.--The State agency shall recover the amount to be repaid, or any part thereof, by deductions from any Federal Pandemic Unemployment Compensation payable to such individual or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the Federal Pandemic Unemployment Compensation to which they were not entitled, in accordance with the same procedures as apply to the recovery of overpayments of regular unemployment benefits paid by the State.

- (B) Opportunity for hearing.--No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.
- (4) Review.--Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

The undersigned must consider several factors to determine whether IWD's payment of FPUC benefits to a claimant was through no fault of the claimant. Those factors include:

- whether the claimant made a material statement or representation in connection with their application for benefits, and whether the claimant knew or should have known that the statement was inaccurate,
- whether the claimant failed or caused another to fail to disclose a material fact in connection with their application for benefits that resulted in the overpayment, and whether the claimant knew or should have known that the fact was material,
- whether the claimant knew or could have been expected to know that they were not entitled to the benefits they received; and whether the overpayment resulted directly, indirectly, partially or totally, from any act or omission of the claimant or of which the claimant had knowledge, and which was erroneous or inaccurate or otherwise wrong.<sup>2</sup>

The undersigned must also consider several factors to determine whether repayment of the UI benefits would be contrary to equity and good conscience. Those factors include:

- whether repayment would cause financial hardship to the claimant,
- that the claimant (regardless of financial circumstances) can establish that they have relinquished a valuable right or changed positions for the worse,
- or, that recovery would be unconscionable under the circumstances.<sup>3</sup>

Other factors include whether the overpayment was the result of a decision on appeal and whether the state agency had given notice to the claimant that they may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal.<sup>4</sup>

In this case, Ms. Marshall made no material misstatements or misrepresentations when she filed for UI benefits. Ms. Marshall contacted IWD, waited on hold for hours, and received directions from IWD about what wages she should report. Ms. Marshall then followed IWD's directions. Ms. Marshall did not know, and had no reason to know, that IWD would deny her REGULAR (state) UI benefits and/or FPUC benefits at a later date after IWD had already sent her the benefits. The FPUC overpayment was not a direct result of any knowing actions or omissions of Ms. Marshall. As such, the payment of FPUC benefits was without fault on the part of Ms. Marshall.

Regarding the second prong of the analysis – whether repayment of the FPUC benefits would be contrary to equity and good conscience – Ms. Marshall has established that recovery of the FPUC overpayment would be a financial hardship to her. Even though Ms. Marshall is in a

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<sup>2</sup> Cf. Iowa Admin. Code r. 871-24.50(7)(factors for waiver of temporary extended unemployment compensation).

<sup>3</sup> See UIPL No. 20-21(4)d.

<sup>4</sup> Cf. Iowa Admin. Code r. 871-24.50(7)(factors for waiver of temporary extended unemployment compensation).

better financial situation now, requiring her to repay these benefits, in light of the economic effects of the global COVID-19 pandemic, would create a hardship on her. The entirety of the \$3,000.00 FPUC overpayment is waived.

**DECISION:**

The June 29, 2023 (reference 04) UI decision denying Ms. Marshall's application to waive the \$3,000.00 FPUC overpayment is REVERSED. The \$3,000.00 FPUC overpayment is waived in its entirety, and Ms. Marshall is not required to repay any of these benefits.



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Daniel Zeno  
Administrative Law Judge

July 27, 2023  
Decision Dated and Mailed

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**NOTE TO MS. MARSHALL:**

- The waiver granted in this decision does not include the \$3,472.00 REGULAR (state) UI overpayment.
- If you were unemployed, or your hours were reduced during the time IWD sent you REGULAR (state) UI benefits and then later found you not eligible for those benefits (December 2020 – March 2021) because of the COVID-19 pandemic, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.**
- To apply for PUA benefits,
  - First go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals>
  - Go to the "WHAT TO EXPECT FROM THE HEARING" section.
  - Go to the last two sentences in that section.
  - The PUA application link is at the end of the second-to-last sentence of the section.
  - The reference number/authorization number, if needed, is: 106762.
- **If IWD finds you eligible for federal PUA benefits, you can use the PUA benefits to pay off the \$3,472.00 REGULAR (state) UI overpayment.**
- **If you do not apply for and are not approved for PUA, you will be required to repay the REGULAR (state) UI benefits you received.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **But you can still apply for PUA benefits at the link above if you were unemployed or your hours were reduced because of the COVID-19 pandemic between February 2, 2020, and June 12, 2021.**
- To check on your PUA application contact IWD online, via email, or by phone.
  - Online: Go to [www.iowaworkforce.gov](http://www.iowaworkforce.gov), click on "Contact Us" then click on "Unemployment Help Request" and complete the form.
  - Email: [uicclaimshelp@iwd.iowa.gov](mailto:uicclaimshelp@iwd.iowa.gov)
  - Phone: 1-866-239-0843

**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  
4<sup>th</sup> 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.