

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEVIN HOFFMAN
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 22A-UI-11970-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.3(7) - Overpayment
PL 116-136, Sec. 2107 - Pandemic Emergency Unemployment Compensation

STATEMENT OF THE CASE:

On May 9, 2022, Kevin Hoffman (claimant/appellant) filed an appeal from the Iowa Workforce Development ("IWD") decision dated May 4, 2022 (reference 02) that determined claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$10,831.00 for 25 weeks between October 4, 2020 and March 27, 2021 based on a prior decision finding claimant ineligible for PEUC.

A telephone hearing was held on June 24, 2022. The parties were properly notified of the hearing. Claimant participated personally. Appeal Nos. 22A-UI-11969, 22A-UI-11970, and 22A-UI-11972 are related and were heard together, forming a single hearing record.

Claimant's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was claimant overpaid Pandemic Emergency Unemployment Compensation (PEUC)?

FINDINGS OF FACT:

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

The administrative record shows claimant received PEUC in the total amount of \$10,831.00 between October 4, 2020 and March 27, 2021. Claimant was subsequently determined to be ineligible for PEUC during that period in a decision dated April 21, 2021. That decision remains in force. See 22A-UI-11969-AD-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated May 4, 2022 (reference 02) that determined claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$10,831.00 for 25 weeks between October 4, 2020 and March 27, 2021 based on a prior decision finding claimant ineligible for PEUC is AFFIRMED.

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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged.

PL 116-136, Sec. 2107 provides, in pertinent part:

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL. — Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the “Secretary”). Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(2) PROVISIONS OF AGREEMENT.— Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(D) are able to work, available to work, and actively seeking work.

...

(e) FRAUD AND OVERPAYMENTS.—

(2) REPAYMENT.—In the case of individuals who have received amounts of pandemic emergency unemployment compensation under this section to which they were not entitled, the State shall require such individuals to repay the amounts of such pandemic emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such pandemic emergency 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 pandemic emergency unemployment compensation payable to such individual under this section 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 pandemic emergency 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.

The administrative record shows claimant received PEUC in the total amount of \$10,831.00 between October 4, 2020 and March 27, 2021. Claimant was subsequently determined to be ineligible for PEUC during that period in a decision dated April 21, 2021. That decision remains in force. See 22A-UI-11969-AD-T.

Claimant received PEUC in the total amount of \$10,831.00 during the period in question and was subsequently found to be ineligible for PEUC during that period. He was therefore overpaid PEUC in the amount of \$10,831.00.

The administrative law judge notes claimant may wish to apply for a waiver of this overpayment amount. Further information on how to apply for a waiver is set forth below.

DECISION:

The decision dated May 4, 2022 (reference 02) that determined claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$10,831.00 for 25 weeks between October 4, 2020 and March 27, 2021 based on a prior decision finding claimant ineligible for PEUC is AFFIRMED.



Andrew B. Duffelmeyer
Administrative Law Judge

June 30, 2022
Decision Dated and Mailed

abd/abd

Note to Claimant:

If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If this decision determines you have been overpaid federal pandemic-related benefits you may request a waiver of the overpayment. Instructions for requesting a waiver can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.