

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

TIMOTHY A SCHUMACHER

Claimant

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HEARING NUMBER: 21B-UI-11372

**EMPLOYMENT APPEAL BOARD
DECISION**

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.3-7

D E C I S I O N

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Board modifies the Findings of Fact to add the following.

We set out the payments to the Claimant. Note that the weekly PUA benefit is calculated slightly differently than regular benefits since, by statute, the weekly PUA benefit is calculated using a different base period, namely, calendar year 2019. Here the regular benefit WBA was \$318, but the PUA calculated to \$294 because the high quarter in the regular base period is not in calendar year 2019. The specified amount was paid in PUA. Also note that by statute 2020 FPUC is not payable for benefit weeks ending before March 29, 2020, nor after BWE July 25, 2020. The 2021 FPUC (which is in the lower amount of \$300 a week) is first payable in BWE 1/2/2021. In the following chart "week paid" means the week of unemployment the payment is to cover, and the date following the listed amounts is the date the money was actually transferred to the Claimant:

Week Paid (BWE)	Reg/PEUC Amt/Date	PUA Amt/Date	FPUC/LWA (Reg) Amt/Date	FPUC/LWA (PUA) Amt/Date
03/28/20	318 on 3-30-20	294 on 4/5/21	N/A	N/A
04/04/20	318 on 4-06-20	294 on 4/5/21	600 on 4-29-20	600 on 4-05-21
04-11-20	318 on 4-13-20	294 on 4/5/21	600 on 4-14-20	600 on 4-05-21
04-18-20	318 on 4-20-20	294 on 4/5/21	600 on 4-21-20	600 on 4-05-21
04-25-20	318 on 4-27-20	294 on 4/5/21	600 on 4-28-20	600 on 4-05-21
05-02-20	318 on 5-04-20	294 on 4/5/21	600 on 5-05-20	600 on 4-05-21
05-09-20	318 on 5-11-20	294 on 4/5/21	600 on 5-12-20	600 on 4-05-21
05-16-20	318 on 5-19-20	294 on 4/5/21	600 on 5-20-20	600 on 4-05-21
05-23-20	318 on 5-26-20	294 on 4/5/21	600 on 5-27-20	600 on 4-05-21
05-30-20	318 on 6-01-20	294 on 4/5/21	600 on 6-02-20	600 on 4-05-21
06-06-20	318 on 6-08-20	294 on 4/5/21	600 on 6-09-20	600 on 4-05-21
06-13-20	318 on 6-15-20	294 on 4/5/21	600 on 6-16-20	600 on 4-05-21
06-20-20	318 on 6-22-20	294 on 4/5/21	600 on 6-23-20	600 on 4-05-21
06-27-20	318 on 6-29-20	294 on 4/5/21	600 on 6-30-20	600 on 4-05-21
07-04-20	318 on 7-06-20	294 on 4/5/21	600 on 7-07-20	600 on 4-05-21
07-11-20	318 on 7-13-20	294 on 4/5/21	600 on 7-14-20	600 on 4-05-21
07-18-20	318 on 7-20-20	294 on 4/5/21	600 on 7-21-20	600 on 4-05-21
07-25-20	318 on 7-27-20	294 on 4/5/21	600 on 7-28-20	600 on 4-05-21
			LWA Starts	
08-01-20	318 on 8-03-20	294 on 4/5/21	300 on 9-04-20	
08-08-20	318 on 8-10-20	294 on 4/5/21	300 on 9-04-20	
08-15-20	318 on 8-17-20	294 on 4/5/21	300 on 9-04-20	
08-22-20	318 on 8-24-20	294 on 4/5/21	300 on 9-04-20	
08-29-20	123.63 8-31-20	294 on 4/5/21	300 on 9-04-20	
	PEUC Starts			
09-05-20	318 on 9-08-20	294 on 4/5/21	300 on 9-09-20	
09-12-20	318 on 9-14-20	294 on 4/5/21		
9/19/2020		294 @ 12-23-20		
9/26/2020		294 @ 12-23-20		
10/3/2020		294 @ 12-23-20		
10/10/2020		294 @ 12-23-20		
10/17/2020		294 @ 12-23-20		
10/24/2020		294 @ 12-23-20		
10/31/2020		294 @ 12-23-20		
11/7/2020		294 @ 12-23-20		
11/14/2020		294 @ 12-23-20		
11/21/2020		294 @ 12-23-20		
11/28/2020		294 @ 12-23-20		
12/5/2020		294 @ 12-23-20		
12/12/2020		294 @ 12-23-20		
12/19/2020		294 @ 12-23-20		
12/26/2020		294 @ 12-22-20		
1/2/2021		294 @ 02-15-21		300 on 2-15-21
1/9/2021		294 @ 02-15-21		300 on 2-15-21
1/16/2021		294 @ 02-15-21		300 on 2-15-21
1/23/2021		294 @ 02-15-21		300 on 2-15-21
1/30/2021		294 @ 02-15-21		300 on 2-15-21
2/6/2021		294 @ 02-15-21		300 on 2-15-21
2/13/2021		294 @ 02-16-21		300 on 2-16-21
2/20/2021		294 @ 02-23-21		300 on 2-23-21
2/27/2021		294 @ 03-02-21		300 on 3-02-21
3/6/2021		294 @ 03-10-21		300 on 3-10-21
3/13/2021		294 @ 03-16-21		300 on 3-16-21
3/20/2021		294 @ 03-23-21		300 on 3-23-21
Total	\$7,119.63 Reg. \$ 636.00 PEUC	\$15,288 PUA [\$3,675 as offset]	\$10,200 FPUC \$ 1,800 LWA	\$10,200 FPUC'20 \$ 3,600 FPUC'21 \$ 0 LWA

The Board adds the following discussion to the **Reasoning and Conclusions of Law**:

The Claimant has been approved for PUA, and been paid PUA. PUA is payable for the same weeks as regular benefits and monies like FPUC and lost wages assistance are payable on PUA on exactly the same basis and regular benefits. If the Claimant were eligible for regular benefits and PEUC, he would by that very fact be ineligible for PUA. The PUA and PEUC benefits never overlap. This why the Department of Labor requires that “[i]n processing claims for PUA, states must verify that individuals have no regular UI entitlement [and if] the individual’s eligibility for regular UI is questionable ... then the state must first require the individual to file a regular UI initial claim. If the individual is subsequently disqualified, then the state may consider the individual for PUA eligibility.” *UIPL 16-20, Attachment 1*, p. I-9 (April 5, 2020). The PUA statute specifically states that the very first requirement for getting PUA is that the person “is not eligible for regular compensation.” CARES Act Section 2102(a)(3)(A)(i); *UIPL 16-20, Attachment 1*, p. I-2 (“Covered Individual” means an individual who is not eligible for regular compensation or extended benefits under State or Federal law...). The whole point of PUA was that people who were not able to get regular benefits, like gig workers and people who are unavailable to work because they are self-quarantining, *can* get PUA. But people who are laid off and who are eligible for regular benefits & PEUC don’t need PUA, and so are not eligible for it. The law is very clear: You can’t get both.

As is clear from the above this is not a case where the Claimant was paid once for a week of unemployment and is now asked for it back. Instead the Claimant was paid twice for a single week of unemployment, and he is asked for one of the two payment back. People only get paid one week of wages for one week of working, and they only get paid one week of benefits for one week of not working. The bottom line is the Claimant owes back the PEUC he collected while he was ineligible. That he was due, **and has been paid** PUA, plus attendant FPUC benefits, **for the same period** provides him money to pay back the double payment but it doesn’t wipe away the debt. Were it otherwise he’d be keeping twice the money he was due for the two weeks in question. He’s been paid twice. He should only be paid once. He owes the difference.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn