

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DEAN T WITTBOLDT**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 22A-UI-07722-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On March 29, 2022, the claimant filed an appeal from the March 18, 2022, (reference 11) unemployment insurance decision that concluded he was overpaid \$10,800.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits. After proper notice, a telephone hearing was conducted on May 11, 2022. The hearing was held together with appeals 22A-UI-07715-CS-T; 22A-UI-07716-CS-T; 22A-UI-07717-CS-T; 22A-UI-07719-CS-T; 22A-UI-07720-CS-T; and 22A-UI-07723-CS-T, and combined into one record. The claimant participated. Administrative notice was taken of the claimant's unemployment insurance benefits records. Exhibit A was admitted into the record.

**ISSUE:**

- I. Is claimant's appeal timely?
- II. Is the claimant overpaid Federal Pandemic Unemployment Compensation (FPUC)?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on March 18, 2022. The appellant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by March 28, 2022. The appeal was not filed until March 29, 2022, because claimant thought he had filed the appeal. Claimant realized he did not receive a confirmation email from the appeals bureau so he filed the appeal again the next day.

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 22, 2020. Beginning week ending April 4, 2020, Federal Pandemic Unemployment Compensation (FPUC) benefits of \$600.00 were paid in addition to state unemployment benefits

or if a claimant received Pandemic Emergency Unemployment Compensation (PEUC) benefits. The \$600.00 in FPUC payments stopped the week ending July 25, 2020. Beginning December 27, 2020, \$300.00 in FPUC payments were paid in addition to state unemployment benefits or if a claimant was receiving PEUC benefits.

The claimant received FPUC benefits in addition to the state unemployment benefits and PEUC benefits he received. Claimant received \$10,800.00 in federal benefits for the period of May 24, 2020 through week ending May 1, 2021.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits due to his disqualifying separation has been affirmed in a decision of the administrative law judge in appeal 21A-UI-12117-JD-T. This decision has become final.

### **REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to

both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appellant filed an appeal in a timely manner but it was not received. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant has been overpaid FPUC benefits. For the reasons stated below the administrative law judge finds the claimant was overpaid FPUC benefits.

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.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(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...

The FPUC program was extended and the weekly benefit amount was reduced to \$300.00 by the consolidated Appropriations Act, 2021.

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits in appeal 21A-UI-12117-JD-T. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). The claimant was overpaid \$10,800.00 in Federal Pandemic Unemployment Compensation (FPUC).

**DECISION:**

The appeal is timely.

The unemployment insurance decision dated March 18, 2022, (reference 11), is **AFFIRMED**. The claimant was overpaid \$10,800.00 in Federal Pandemic Unemployment Compensation (FPUC) for the weeks between May 24, 2020, through May 1, 2021.



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Carly Smith  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

June 6, 2022  
Decision Dated and Mailed

cs/scn

*Note to Claimant:*

This decision determines you have been overpaid FPUC under the CARES Act. 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. Additionally, instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/federal-unemployment-insurance-overpayment-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>