

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STANLEY L BLUITT
Claimant

APPEAL 22A-UI-10508-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (2)

PL 116-136 Section 2104 – Federal Pandemic Unemployment Compensation (FPUC)
Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 21, 2022 (reference 06) unemployment insurance decision that found claimant was overpaid FPUC benefits effective June 28, 2020 through July 25, 2020 as he was monetarily eligible for regular unemployment insurance benefits in the State of Ohio. The claimant was properly notified of the hearing. A telephone hearing was held on June 13, 2022. The claimant participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records. The hearing was consolidated with Appeal No. 22A-UI-10506-DB-T; 22A-UI-10507-DB-T; and 22A-UI-10509-DB-T.

ISSUES:

Did the claimant file a timely appeal?

Is the claimant overpaid FPUC benefits effective June 28, 2020 through July 25, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: An unemployment insurance benefits decision stating that the claimant was overpaid FPUC benefits in Iowa was mailed to the claimant's address of record on January 21, 2022. The claimant received the decision in the mail. The claimant immediately called and spoke to an Iowa Workforce Development (IWD) representative who stated that he needed to file a waiver and to just wait for the answer on his request for a waiver. He filed a waiver. When he did not hear any response to his request for waiver, he again contacted IWD in April of 2022 and was told at that time to file an appeal. He filed an appeal on April 25, 2022. He has still not received any decision on his request for waiver.

Claimant filed for unemployment insurance benefits effective March 15, 2020 when he was laid off due to lack of work from Tradesmen International LLC. He filed weekly-continued claims for benefits from March 15, 2020 through June 27, 2020, when he exhausted his maximum benefit amount. His claim then paid PEUC benefits from June 28, 2020 through October 31, 2020 for a

total payment of PEUC of \$3,861.00. Claimant also received Federal Pandemic Unemployment Compensation (FPUC) benefits of \$2,400.00 for the weeks between June 28, 2020 and July 25, 2020. Claimant also received Lost Wages Assistance (LWA) program benefits of \$1,800.00 for the weeks of July 26, 2020 through September 5, 2020.

A decision dated March 8, 2021 (reference 04) was issued finding that the claimant was not eligible for PEUC benefits effective June 28, 2020 due to him being eligible to file for regular unemployment insurance benefits in the State of Ohio. That decision was reversed in Appeal No. 22A-UI-10506-DB-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

The first issue is whether the claimant's appeal shall be considered timely. The administrative law judge finds that it shall be considered timely.

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 issuing the notice of the filing of the claim to protest payment of benefits to the claimant. All interested parties shall select a format as specified by the department to receive such notifications. 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 issued, 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.

Iowa Admin. Code r. 871-24.35(2) provides:

Date of submission and extension of time for payments and notices.

(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or

regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

- a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.
- b. The division shall designate personnel who are to decide whether an extension of time shall be granted.
- c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.
- d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Bd. of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

In this case, the claimant received the decision in the mail and was instructed by a workforce advisor that he needed to file a waiver. As such, the appeal shall be considered timely pursuant to Iowa Admin. Code r. 871-24.35(2)(division misinformation).

The next issue is whether the claimant was overpaid FPUC benefits in Iowa effective June 28, 2020 through July 25, 2020. The administrative law judge finds that he was not overpaid FPUC benefits as the initial disqualification has been reversed.

Iowa Code § 96.3(7)a provides:

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

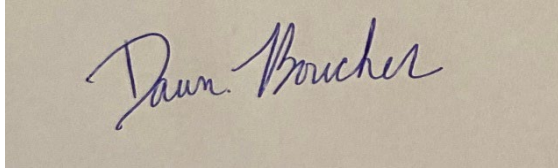
(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

PL 116-136 Section 2104 of the CARES Act created a program in which an additional \$600.00 per week was payable to claimants who were eligible for at least \$1.00 per week in benefits stemming from other programs including regular unemployment insurance funded by the State of Iowa, Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, Iowa Extended benefits, and Trade Act benefits. This initial program ran from March 29, 2020 through July 25, 2020. Claimants were only eligible to receive FPUC payments if they were entitled to receive benefits from another applicable program. The payments of FPUC benefits were automatic so long as a claimant was determined to be eligible under one of the other applicable programs. On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes Division N, Title II, Subtitle A, the Continued Assistance Act. Section 203 reauthorized the FPUC program for weeks of unemployment beginning after December 26, 2020 and ending on or before March 14, 2021 and modified the weekly supplement payment to \$300.00. On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (ARPA). Section 9103 of ARPA amends Section 2104 of the CARES Act of 2020 and extended the FPUC program for weeks of unemployment ending on or before September 6, 2021. On May 11, 2021, Governor Reynolds announced that Iowa would end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for FPUC benefits in Iowa was the week ending June 12, 2021.

The underlying decision that initially disqualified the claimant from receipt of PEUC benefits has since been reversed in Appeal No. 22A-UI-10506-DB-T. As such, the claimant is not overpaid FPUC benefits between June 28, 2020 and July 25, 2020 as he was eligible for FPUC as a supplement to his PEUC benefits.

DECISION:

The appeal shall be considered timely. The January 21, 2022 (reference 06) unemployment insurance decision is reversed. The claimant was not overpaid FPUC benefits in Iowa effective June 28, 2020 through July 25, 2020 as the underlying disqualification decision has been reversed.

A rectangular box containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

June 21, 2022
Decision Dated and Mailed

db/db