

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARLA J BAINBRIDGE
Claimant

APPEAL 22A-UI-08256-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (4)

PL 116-136, Sec. 2107 – Pandemic Emergency Unemployment Compensation
Iowa Code § 96.16(4) – Offenses and Misrepresentation
Iowa Code § 96.5(8) – Administrative Penalty
Iowa Code § 96.5(5) – Other Compensation
Iowa Admin. Code 871-25.1 - Definitions
Iowa Admin. Code 871-25.9 – Administrative Penalties

STATEMENT OF THE CASE:

On March 30, 2022, Carla Bainbridge (claimant/appellant) filed an appeal from the Iowa Workforce Development (IWD) decision dated March 23, 2022 (reference 04) that found claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$875.00 for five weeks between September 13 and October 17, 2020 due to a failure to report wages earned. The decision also imposed a 15 percent penalty due to misrepresentation; warned claimant that legal action may be taken to recover the overpayment, including the filing of a lien; and determined an administrative penalty would be assessed in the 36 months following the last week of misrepresentation.

The parties were properly notified of the hearing. A telephone hearing was held on May 31, 2022. The claimant participated personally. IWD Investigation and Recovery Unit participated by Investigator Kara Harris. Appeal Nos. 22A-UI-08254, 22A-UI-08256, 22A-UI-08258, and 22A-UI-08259 are related and were heard together, forming a single hearing record. IWD Exhibits A-C were admitted. The administrative law judge took official notice of the administrative record.

ISSUE(S):

Was the claimant overpaid Pandemic Emergency Unemployment Compensation (PEUC)?

Did claimant fail to report wages earned?

Were penalties properly imposed?

FINDINGS OF FACT:

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

The claimant filed a claim for unemployment insurance benefits with an effective date of March 15, 2020. Claimant filed weekly continued claims through December 12, 2020. Claimant's weekly benefit amount was \$175.00. Claimant did not report earning wages in any of these weeks. An investigatory audit was subsequently performed.

Claimant was earning wages from Blackhawk Lifecare Center during each week filed. The wages claimant earned were in excess of her weekly benefit amount plus \$15.00 for all but one week filed, the week ending August 8, 2020.

Claimant did not report the wages earned at Blackhawk Lifecare Center because she believed she was filing with regard to her self-employment as a hair stylist and she was not earning money from that business. Claimant did not read the claimant handbook and did not understand that she was to report all wages earned each week, regardless of source. IWD determined imposition of a 15 percent penalty was appropriate due to claimant failing to read and understand the claimant handbook and file weekly claims accordingly.

Claimant received PEUC in the amount of \$175.00 per week for a total of five weeks, from the benefit week ending September 19, 2020 and continuing through the benefit week ending October 17, 2020. Claimant was eligible for unemployment insurance benefits in the amount of \$30.00 and Lost Wage Assistance Payments in the amount of \$300.00 in the week ending August 8, 2020. Claimant was ineligible for benefits in each other week filed due to earning wages in excess of her weekly benefit amount plus \$15.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated March 23, 2022 (reference 04) that found claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$875.00 for five weeks between September 13 and October 17, 2020 due to a failure to report wages earned is MODIFIED in favor of appellant.

I. Was the claimant overpaid PEUC?

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.

Claimant received PEUC in the amount of \$175.00 per week for a total of five weeks, from the benefit week ending September 19, 2020 and continuing through the benefit week ending October 17, 2020. Claimant was eligible for unemployment insurance benefits in the amount of \$30.00 and Lost Wage Assistance Payments in the amount of \$300.00 in the week ending August 8, 2020. Claimant was ineligible for benefits in each other week filed due to earning wages in excess of her weekly benefit amount plus \$15.00. She was therefore overpaid PEUC in the total amount of \$875.00.

II. Were penalties properly imposed?

Iowa Code section 96.16(4) provides:

4. Misrepresentation.

a. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph "a" and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

Iowa Admin. Code 871—25.1, Definitions, provides in relevant part:

"Administrative penalty" means the disqualification of a claimant from the receipt of benefits due to fraud or misrepresentation or the willful and knowing failure to disclose a material fact for a period of not more than the remaining benefit year, including the week in which such determination is made.

...

"Fraud" means the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or by the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or the department, shall not act upon it to their, or its, legal injury.

...

"Misrepresentation" means to give misleading or deceiving information to or omit material information; to present or represent in a manner at odds with the truth.

Iowa Code section 96.5(8) provides:

Administrative penalty. If the department finds that, with respect to any week of an insured worker's unemployment for which such person claims credit or benefits, such person has, within the thirty-six calendar months immediately preceding such week, with intent to defraud by obtaining any benefits not due under this chapter, willfully and knowingly made a false statement or misrepresentation, or willfully and knowingly failed to disclose a material fact; such person shall be disqualified for the week in which the department makes such determination, and forfeit all benefit rights under the unemployment compensation law for a period of not more than the remaining benefit period as determined

by the department according to the circumstances of each case. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter.

The administrative law judge finds the 15 percent penalty was not properly imposed. A finding of fraud is required to impose a 15 percent penalty. Claimant did not commit fraud. Fraud requires knowledge and intent. Claimant's actions were at worst negligent in that she did not read and understand the claimant handbook as required.

The administrative law judge finds claimant's actions don't rise to the level of misrepresentation, either. To mislead, deceive, or omit again requires some kind of knowledge or intent which is not present here. The penalties set forth in Iowa Code 96.16(4)a, including the filing of a lien, were not properly imposed either.

Finally, because the administrative law judge finds claimant conduct did not constitute fraud or misrepresentation, the administrative penalty provided for in Iowa Code 96.5(8) was not properly imposed either.

Claimant was not eligible for benefits during almost all the weeks she was filing due to a failure to report wages and was overpaid as a result. However, the administrative law judge cannot find based on the evidence available that claimant's conduct constituted fraud or misrepresentation such that further sanctions are proper.

DECISION:

The decision dated March 23, 2022 (reference 04) that found claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$875.00 for five weeks between September 13 and October 17, 2020 due to a failure to report wages earned is MODIFIED in favor of appellant. Claimant was overpaid PEUC in the amount of \$875.00 due to a failure to properly report wages. However, the penalties were not properly imposed.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

June 2, 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.

Individuals who do not qualify for regular unemployment insurance benefits and were unemployed between February 2, 2020, and June 12, 2021 for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** To apply for PUA go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals> and click the link in the last paragraph under "WHAT TO EXPECT FROM THE HEARING." **The authorization number is the PIN you used for the hearing.**

If this decision becomes final and you are not eligible for PUA, you may have an overpayment of benefits.