

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

LORI AHREND

Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 22A-UI-13844-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
PL 116-136, Sec. 2107 - Pandemic Emergency Unemployment Compensation
PL 116-136, Sec. 2104 - Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Ms. Lori Ahrends, claimant/appellant, timely appealed from the June 1, 2022, (reference 01) unemployment insurance decision that found claimant was overpaid \$11,849.93 in federal unemployment benefits (\$4,649.93 in PEUC benefits for 37 weeks between 09/27/20 and 06/12/21; and \$7,200.00 in FPUC benefits for 24 weeks between 12/27/20 and 06/12/21) due to a decision (reference 01) which stated you voluntarily quit employment with Council Bluffs Community School District. Notices of hearing were mailed to claimant's last known address of record for a telephone hearing scheduled for July 25, 2022, at 2:00PM. The department did not participate. Claimant personally participated. Judicial notice was taken of the administrative record, including the appeal and attachment, DBIN, and decisions in appeals 20A-UI-12054-DB-T, 21A-UI-06879-SC-T, AND 20-UI-06880-SC-T.

ISSUES:

Was the claimant overpaid benefits?
Was the claimant overpaid PEUC benefits?
Was the claimant overpaid FPUC benefits?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the undersigned finds:

A hearing was held on November 24, 2020, in 20A-UI-12054-DB-T. The matter was regarding the decision dated 09/15/20 (reference 01) finding claimant was disqualified from benefits due to voluntarily quitting their employment on May 4, 2020, with the Council Bluffs Community School District. This is the basis for the decision on appeal today. The appeal modified the decision in favor of claimant, finding the disqualification from voluntarily quitting moot since claimant was monetarily eligible in an alternative base period and remanded the issue of eligibility and calculation of benefits back to the Benefits Bureau. Further the appeal ruled that benefits are denied effective 04/05/20 through 09/06/20 as claimant was not able to and available to work due

to her doctor's restrictions, with benefits allowing effective 09/27/20, so long as she was otherwise eligible. The 12/07/20 ruling was not appealed and has become final agency action.

A hearing was held on May 21, 2021, in 21A-UI-06879-SC-T. The matter was regarding the decision dated 02/12/21 (reference 02) finding claimant was overpaid \$1,102.08 in regular unemployment benefits for 12 weeks between 05/2/20 and 07/18/20 due to the ALJ decision dated 12/07/20 on the reference 01 matter finding claimant not able and available during this time. The appeal affirmed the decision. The 06/02/21 ruling was not appealed and has become final agency action.

A hearing was held on May 21, 2021, in 21A-UI-06880-SC-T. The matter was regarding the decision dated 02/12/21 (reference 03) finding claimant was overpaid \$558.00 in PEUC benefits for 6 weeks between ending 08/29/20 due to the ALJ decision dated 12/07/20 on the reference 01 matter finding claimant not able and available during this time. The appeal affirmed the decision. The 06/02/21 ruling was not appealed and has become final agency action.

The only decision disqualifying claimant from benefits is the September 15, 2020 (reference 01) decision that was modified in appeal 20A-UI-12054-DB-T. The ruling was that the voluntary quit regarding Council Bluffs was moot and the claimant is not able and available from 04/05/20 through 09/06/20. The ruling is binding as final agency action. There are no other timeframes of disqualification.

The ruling in 21A-UI-06880-SC-T that claimant was overpaid \$558.00 in PEUC benefits for 6 weeks between ending 08/29/20 is binding as final agency action.

Claimant filed a new claim for unemployment insurance benefits with an original claim date of 03/15/20. Claimant's weekly benefit amount (WBA) was \$93.00. Claimant was paid \$7,800.00 in FPUC benefits for 16 weeks between 04/11/20 and 08/29/20.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was overpaid regular state unemployment insurance benefits, federal benefits of PEUC and FPUC. For the reasons set forth below, it is determined claimant was overpaid federal benefits.

Iowa Code § 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...

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(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.

As stated above, the only decision found that disqualifies claimant from benefits is the September 15, 2020 (reference 01) decision that was modified in appeal 20A-UI-12054-DB-T. Claimant's window of ineligibility is April 5, 2020, through September 26, 2020.

In the window of April 5, 2020, through September 26, 2020, claimant received \$558.00 in PEUC benefits. The payments were for the benefit weeks ending July 25, 2020, August 1, 8, 15, 22, and 29, 2020. This is a six-week period ending August 29, 2020. This is the finding in 21A-UI-

06880-SC-T (that claimant was overpaid \$558.00 in PEUC benefits for 6 weeks between ending 08/29/20) and it is binding as final agency action.

Over the 16-week period from beginning April 5, 2020, and ending July 25, 2020, claimant received \$7,800.00 in FPUC benefits. No FPUC benefits were received from July 26, 2020, through August 29, 2020.

Furthermore, it appears that claimant was paid LWAP benefits in August and a part of September 2020, during a period when she was not able and available to work.

DECISION:

The June 1, 2022, (reference 01) unemployment insurance decision that found claimant was overpaid \$11,849.93 in federal unemployment benefits (\$4,649.93 in PEUC benefits for 37 weeks between 09/27/20 and 06/12/21; and \$7,200.00 in FPUC benefits for 24 weeks between 12/27/20 and 06/12/21) is **MODIFIED** in favor of claimant. Claimant disqualification window is April 5, 2020, through September 26, 2020, and therefore was overpaid \$8,358.00 in federal unemployment benefits (\$558.00 in PEUC benefits; and \$7,800.00 in FPUC benefits).

REMAND:

This matter is remanded to the Benefits Bureau for a decision with appeal rights regarding the overpayment amount of LWAP benefits.



Darrin T. Hamilton
Administrative Law Judge

October 20, 2022
Decision Dated and Mailed

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This decision determines you have been overpaid PEUC and FPUC benefits under the CARES Act. If you disagree with this decision, you may file an appeal by following the instructions set forth at the end of this decision. Additionally, instructions for requesting a **waiver** of the CARES Act overpayments can be found at <https://www.iowaworkforcedevelopment.gov/federal-unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.