

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

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**CAROL L SCHULTZ**  
Claimant

**APPEAL NO. 23A-UI-04333-JT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 04/05/20  
Claimant: Appellant (2)**

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P. L. 116-136, §2104(F) – FPUC Overpayment Waiver  
P. L. 116-136, §2107(E) – PEUC Overpayment Waiver

**STATEMENT OF THE CASE:**

On April 25, 2023, Carol Schultz (claimant) filed a timely appeal from the April 18, 2023 (reference 02) decision that held denied her request to waive repayment of \$337.00 in Pandemic Emergency Unemployment Compensation (PEUC) and \$3,600.00 in Federal Pandemic Unemployment Compensation (FPUC). The claimant requested an in-person hearing. After due notice was issued, a hearing was held on May 19, 2023 at the Waterloo IowaWORKS Center. The claimant participated in the hearing. Exhibits A, the online appeal, and Exhibits B through V, the claimant's 42 page packet, were received into evidence. The administrative law judge took official notice of the April 18, 2023 (reference 02) decision, the December 28, 2022 waiver application, DBIN, KPYX, WAGEB, and of the Great Plains overpayment database. The administrative law judge took official notice of the November 7, 2022 (reference 01) overpayment decision, though that decision was not available to the administrative law judge at the time of the hearing because Iowa Workforce Development did not upload the decision into the decision database (Alfresco & CID).

**ISSUES:**

Whether the claimant is eligible to have repayment of the \$337.00 PEUC overpayment waived.  
Whether the claimant is eligible to have repayment of the \$3,600.00 FPUC overpayment waived.

**FINDINGS OF FACT:**

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

On November 7, 2022, Iowa Workforce Development Benefits Bureau entered the reference 01 non-fraud overpayment decision. The overpayment decision pertained to benefits paid to the claimant in connection with the May 17, 2020 original claim. The overpayment decision held the claimant was overpaid regular benefits totaling \$4,231.12, PEUC benefits totaling \$337.00, and FPUC benefits totaling \$3,600.00. The combined overpayment amount totaled \$8,168.12. Through an offset of regular benefits approved for a later period, the \$4,231.12 overpayment of regular benefits was reduced to \$1,535.12. According to the Great Plains overpayment

database, the PEUC and FPUC amounts remain unchanged and the combined outstanding overpayment balance is \$5,472.12. At the time the claimant received the benefits in question, the claimant was in regular contact with Iowa Workforce Development in an effort to ensure she was eligible for the benefits she received. The overpayments in question resulted from good faith wage reporting errors on the part of the claimant. The claimant used the unemployment insurance benefits for her usual expenses.

The claimant is retired, is 71 years old, and lives on a fixed income. The claimant was most recently employed as a seasonal tax preparer for H&R Block and last performed work for that employer during the second quarter of 2022, at the end of the 2022 tax season. The claimant's primary source of income are her Social Security retirement benefits, which rose to \$943.00 a month in January 2023. The claimant also receives a \$205.00 monthly Medicaid stipend, which raises her monthly income to \$1,148.00. The claimant lives alone and does not receive financial support from family or friends. Nor is the claimant obligated to provide financial support to anyone else. The claimant owns her Waterloo home and has paid off the mortgage. The home is assessed at \$63,620.00. The claimant has \$5.00 in her savings account and \$593.00 in her checking account. The claimant does not have a retirement savings/investment account. The claimant no longer owns a vehicle and, instead, relies on friends for transportation.

The claimant's annual expenses include \$1,003.00 in real estate property taxes and a \$1,600.00 in property insurance premium.

The claimant's monthly expenses include included an approximate \$100.00 food expense, a \$75.00 gas/electric expense, for which the claimant receives a temporary heating subsidy. A \$50.00 water/sewage expense, a \$150.00 internet and home phone expense for which the claimant uses the \$205.00 Medicaid assistance, a \$68.73 cell phone expense, and an \$87.89 satellite video expense. The claimant has no credit card balance.

The claimant has not yet filed her 2022 income tax return. The claimant has been waiting to file until the unemployment insurance overpayment waiver matter is resolved. The claimant generally receives an income tax refund. The claimant is concerned about her tax liability in connection with receipt of unemployment insurance benefits.

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

Concerning overpayment of FPUC benefits, 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”).

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(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, except that the State agency may waive such repayment if it determines that—

(A) the payment of such Federal Pandemic 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 Federal Pandemic Unemployment Compensation payable to such individual 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 Federal Pandemic 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.

(B) Opportunity for hearing.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(4) Review.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

Concerning overpayment of PEUC benefits, PL 116-136, Section 2107(e) provides as follows:

(e) Fraud and overpayments

(1) In general

If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of

such nondisclosure such individual has received an amount of pandemic emergency unemployment compensation under this section to which such individual was not entitled, such individual—

- (A) shall be ineligible for further pandemic emergency unemployment compensation under this section in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and
- (B) shall be subject to prosecution under [section 1001 of title 18](#), United States Code.

#### (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.

##### (B) Opportunity for hearing

No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

#### (4) Review

Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

The administrative law judge adopts the Iowa Employment Appeal Board's analysis, as follows, for determining whether the CARES Act overpayments should be waived. See Hearing Number 22B-UI-12378.

In deciding the question of fault, the administrative law judge will consider factors such as whether a material statement or representation was made by the Claimant in connection with the application for benefits, whether the Claimant knew or should have known that a fact was material and failed to disclose it, whether the Claimant should have known the Claimant was not eligible for benefits, and whether the overpayment was otherwise directly caused by the knowing actions of the Claimant. Cf. 871 IAC 24.50(7) (setting out factors for similar issue under TEUC from 2002). In deciding equity and good conscience the administrative law judge will utilize the federal directives by considering the following:

- It would cause financial hardship to the person for whom it is sought; or
- The recipient of the overpayment can show (regardless of their financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either they have relinquished a valuable right or changed positions for the worse; or
- Recovery would be unconscionable under the circumstances.

UIPL 20-21 p. 6-7 (DOL ETA 5/5/2021).

Applying these factors to the totality of the circumstances in this case, the administrative law judge concludes the FPUC and PEUC overpayments should be waived. The available evidence indicates the non-fraud overpayment amounts resulted from good faith errors on the part of the claimant, rather than intentional omission or misrepresentations. The claimant attempted to ensure she was eligible for benefits as she received them, but got lost in the copious and conflicting information she received from Iowa Workforce Development. In context, the claimant's errors do not demonstrate fault within the meaning of the applicable law. Regardless of whether the CARES Act overpayments are waived, the claimant will remain obligated to repay more than \$1,500.00 balance of regular state unemployment insurance benefits. Repayment of that amount will present a significant challenge for the claimant, given her limited resources and income. The weight of the evidence indicates recovery of the \$3,600.00 FPUC overpayment and \$337.00 PEUC overpayment amounts would be unconscionable under the circumstances. Accordingly, repayment of the FPUC and PEUC overpayments are hereby WAIVED.

**DECISION:**

The April 18, 2023 (reference 02) overpayment waiver denial decision is REVERSED. The claimant is eligible for waiver of repayment of \$337.00 in Pandemic Emergency Unemployment Compensation (PEUC) and \$3,600.00 in Federal Pandemic Unemployment Compensation (FPUC). Repayment of the FPUC and PEUC overpayments are hereby WAIVED.



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James E. Timberland  
Administrative Law Judge

May 30, 2023  
Decision Dated and Mailed

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**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  
4<sup>th</sup> 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>.

**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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**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.