

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOMINIC LEMVAN
Claimant

APPEAL 21A-UI-04713-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/26/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Dominic Lemvan, the claimant/appellant, appealed the January 27, 2021, (reference 03) unemployment insurance decision that concluded he was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits. Mr. Lemvan was properly notified of the hearing. A telephone hearing was held on April 12, 2021. Mr. Lemvan participated and testified. Official notice was taken of the administrative record.

ISSUE:

Has Mr. Lemvan been overpaid FPUC benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Lemvan received FPUC benefits in the gross amount of \$1,200.00 for two weeks between June 28, 2020 and July 11, 2020 (or \$600.00 per week before taxes were withheld).

FPUC is a program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 that provides additional payment to those individuals that are receiving state or federal unemployment insurance (UI) payments. It is funded by the federal government, not by state unemployment taxes paid by employers. The FPUC amount was \$600.00 per week from April 5, 2020 through July 31, 2020.

On August 10, 2020, Iowa Workforce Development issued a reference 01 decision denying Mr. Lemvan REGULAR UI benefits as of April 26, 2020. That decision was modified by the administrative law judge's decision in Appeal 20A-UI-09585-JC-T, dated September 28, 2020. The administrative law judge decision found 1) Mr. Lemvan was eligible for REGULAR UI benefits for the weeks of June 14-20, 2020 and June 21-27, 2020 and 2) Mr. Lemvan not eligible for REGULAR UI benefits for any other weeks.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes Mr. Lemvan was overpaid FPUC 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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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...

Because Mr. Lemvan is disqualified from receiving regular UI benefits for all weeks other than the weeks of June 14-20, 2020 and June 21-27, 2020, he is also disqualified from receiving FPUC benefits during this same time period. While Iowa law does not require a claimant to repay regular UI benefits when the employer does not participate in the fact-finding interview,

the CARES Act makes no such exception for the repayment of FPUC benefits. Therefore, the determination of whether Mr. Lemvan must repay FPUC does not hinge on the employer's participation in the fact-finding interview. The administrative law judge concludes that Mr. Lemvan has been overpaid FPUC in the gross amount of \$1,200.00 for two weeks between June 28, 2020 and July 11, 2020, which should be repaid.

DECISION:

The January 27, 2021, (reference 03) unemployment insurance decision is affirmed. Mr. Lemvan has been overpaid FPUC benefits in the amount of \$1,200.00, which must be repaid.

NOTE TO CLAIMANT:

- This decision determines you have been overpaid FPUC benefits. 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.
- You may also request a waiver of this overpayment. The written request must include the following information:
 1. Claimant name & address.
 2. Decision number/date of decision.
 3. Dollar amount of overpayment requested for waiver.
 4. Relevant facts that you feel would justify a waiver.
- The request should be sent to:

Iowa Workforce Development
Overpayment waiver request
1000 East Grand Avenue
Des Moines, IA 50319

- This Information can also be found on the Iowa Workforce Development website 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.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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Des Moines, Iowa 50319-0209
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April 15, 2021
Decision Dated and Mailed

dz/scn