

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

**KIM A SWAB
1808 W 58TH ST
DAVENPORT IA 52806-1710**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

apl

APPEAL NO. 21A-UI-13763-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the date below the administrative law judge's signature on the last page of the decision, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
OR
Fax Number: (515)281-7191***

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:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your 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.

ONLINE RESOURCES:

UI law and administrative rules:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>

Employer UI Handbook: <https://www.iowaworkforcedevelopment.gov/employer-handbook>

Report UI fraud: <https://www.iowaworkforcedevelopment.gov/report-fraud>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KIM A SWAB
Claimant

APPEAL NO. 21A-UI-13763-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/08/20
Claimant: Appellant (4)

Public Law 116-136, §2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 20, 2021, reference 03, decision that held the claimant was overpaid \$7,800.00 in Federal Pandemic Unemployment Compensation for 13 weeks between March 29, 2020 through June 27, 2020, due to the reference 01 decision that held the claimant had voluntarily quit for personal reasons. After due notice was issued, a hearing was held on August 13, 2021. The claimant participated. There were three appeal numbers set for a consolidated hearing: 21A-UI-13761-JTT, 21A-UI-13762-JTT, and 21A-UI-13763-JTT. Exhibits A through D were received into evidence. The administrative law judge took official notice of the following Agency administrative records: the reference 01, 02, and 03 decisions, DBRO, KPYX, KPY1, the July 7, 2020 and March 26, 2021 PUA applications, and the July 17, 2020 PUA Claim Detail.

ISSUE:

Whether the was overpaid \$7,800.00 in Federal Pandemic Unemployment Compensation for 13 weeks between March 29, 2020 through June 27, 2020, due to the reference 01 decision that held the claimant had voluntarily quit for personal reasons.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective March 8, 2020. The claimant received \$1,305.00 in regular benefits for the 15 weeks between March 15, 2020 and June 27, 2020. The claimant also received \$7,800.00 in Federal Pandemic Unemployment Compensation (FPUC) for 13 weeks between March 29, 2020 through June 27, 2020.

On July 2, 2020, Iowa Workforce Development Benefits Bureau issued a reference 01, decision that disqualified the claimant for regular state benefits, based on the deputy's conclusion that the claimant voluntarily quit on March 13, 2020 without good cause attributable to the employer. The reference 01 decision prompted the overpayment decision from which the claimant appeals in the present matter. The reference 01 decision has been affirmed in Appeal Number 21A-UI-13761-JTT.

On December 4, 2020, Iowa Workforce Development Benefits Bureau issued the reference 02 decision that held the claimant was overpaid \$1,305.00 in regular state benefits for 15 weeks between March 15, 2020 and June 27, 2020. The reference 02 decision has been affirmed in Appeal Number 21A-UI-13762-JTT.

On July 17, 2020, Iowa Workforce Development issued an Assessment for PUA Benefits that allowed \$203.00 in Pandemic Unemployment Assistance (PUA) for the period beginning March 8, 2020 and potentially through June 12, 2021. The PUA approval period included the period of March 29, 2020 through June 27, 2020.

There is no indication in the IWD records that claimant has been double paid FPUC benefits for the period of March 29, 2020 through June 27, 2020. In other words, there is no indication that after IWD issued FPUC benefits for that period in connection with issuing regular benefits for that period, IWD went back and paid FPUC benefits for the same period in connection with the PUA approval.

REASONING AND CONCLUSIONS OF LAW:

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, 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.

Because the reference 01 decision disqualified the claimant for unemployment insurance benefits, and because the reference 0, decision was affirmed on appeal, the \$7,800.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits that the claimant received for 13 weeks between March 29, 2020 through June 27, 2020 would be an overpayment of benefits if the claimant's FPUC eligibility was based only on her eligibility or regular state benefits. However, the claimant is eligible for FPUC benefits for that same period, based on the PUA approval for that period. Because FPUC benefits have not been paid twice for the same period, the \$7,800.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits the claimant received for 13 weeks between March 29, 2020 through June 27, 2020 are not an overpayment of benefits.

DECISION:

The May 20, 2021, reference 03, decision is modified in favor of the claimant as follows. The claimant would not be eligible for FPUC benefits for the period March 29, 2020 through June 27, 2020 if the FPUC eligibility was based only on the eligibility for regular benefits. However, because the claimant is eligible for FPUC benefits for that same period, based on the PUA approval for that period, and because FPUC benefits have not been paid twice for the same period, the \$7,800.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits the claimant received for 13 weeks between March 29, 2020 through June 27, 2020 are not an overpayment of benefits.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

November 4, 2021
Decision Dated and Mailed

jet/scn