

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

**IN RE CLAIM OF
FREDERICK HOUWEN**

Claimant

:
: **HEARING NUMBER: 22B-UI-11403**
:
:
: **EMPLOYMENT APPEALBOARD**
: **DECISION**
:
:

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-A

**D E C I S I O N
O N R E M A N D**

BENEFITS ARE DENIED

Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED AS MODIFIED BELOW**.

Title 44 of the Code of Federal Regulations section 206.116(b) provides: An applicant must return funds to FEMA and/or the State (when funds are provided by the State) when FEMA and/or the State determines that the assistance was provided erroneously, that the applicant spent the funds inappropriately, or that the applicant obtained the assistance through fraudulent means.

Title 44 of the Code of Federal Regulations governing the Federal Emergency Management Agency's Federal Disaster Assistance Program does not authorize the imposition of an administrative penalty for fraud. Therefore, the administrative penalty for fraud was not properly imposed in this Lost Wages Assistance case.

Given this modification the question of fraud no longer affects the outcome in this case. As we found in case 11400 even if there was no fraud in the PUA claim, the business described by Claimant is not self-employment and the Claimant was thus properly denied PUA regardless of fraud. This being the case the LWA overpayment would follow regardless of a finding of fraud. And since LWA overpayments cannot, as a matter of law, be enhanced by a finding of fraud we strike that enhancement regardless of a fraud finding.

DECISION:

The October 14, 2021 (case 11403) decision of the Administrative Law Judge is **AFFIRMED as modified in the claimant's favor**. The claimant was overpaid \$1,800.00 in LWA benefits. IWD **incorrectly** imposed the administrative penalty. Lost Wages Assistance overpayments cannot be enhanced by fraud, so the total amount of Lost Wages Assistance liability owed by the Claimant is \$1,800.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv