

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MORGAN A WHALEN**  
Claimant

**APPEAL NO: 22A-UI-05708-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/29/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeals  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 21, 2021, (reference 03) unemployment insurance decision that concluded she was overpaid \$4,800.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits. After proper notice, a telephone hearing was conducted on April 4, 2022. The hearing was held jointly with appeal 22A-UI-05701-SN-T, 22A-UI-05708-SN-T, 22A-UI-05711-SN-T, and 22A-UI-05699-SN-T. The claimant participated. Official notice of the administrative records was taken.

**ISSUES:**

Whether the claimant's appeal is timely? Whether there are reasonable grounds to find her appeal otherwise timely?

Is the claimant overpaid Federal Pandemic Unemployment Compensation (FPUC)?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 29, 2020.

The claimant received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$4,800.00 in federal benefits for the period of May 31, 2020 and July 25, 2020.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 22A-UI-05701-SN-T.

The following section describes the findings of fact necessary to resolve the timeliness issue:

A disqualification decision was mailed to the claimant's address of record, 107 3rd Avenue East in Donahue, Iowa on November 10, 2020 (reference 05). The claimant updated her address to

this location on May 13, 2020, ten days after she moved to this address. The claimant did not receive the decision. The claimant received a series of balance statements, labeled internally as Overpayment Statement of Amount Due 65-5314A (05-17), in November and December 2021 stating that she owed money to the agency. These balance statements do not inform parties how to appeal. The claimant did not receive overpayment decision letters dated September 21, 2021 (reference 02, 03, and 04) displaying the rationale for these decisions. The Appeals Bureau could not find Iowa Workforce Development's versions of reference 03 and 04 due to a technological error. The claimant did not receive a decision, dated February 10, 2022, (reference 05), offsetting her existing overpayments with her State of Iowa tax refund.

On March 3, 2022, an Iowa Workforce Development Department representative called the claimant and informed her that she owed money to the State of Iowa. The claimant told the representative that she did not understand because her hours were reduced due to Covid19. The representative informed the claimant that she had been disqualified from regular unemployment. After receiving this news and information regarding how to appeal, the claimant immediately appealed.

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

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of issuance of the notice of the filing of the claim to protest payment of benefits to the claimant. All interested parties shall select a format as specified by the department to receive such notifications. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was issued, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the fact-finder's decision because she did not receive decisions from the agency informing her of the decision disqualifying her,

establishing overpayments, and informing her of that her refund would offset those overpayments. The claimant received a series of balance statements, labeled internally as Overpayment Statement of Amount Due 65-5314A (05-17), in November and December 2021 stating that she owed money to the agency. These balance statements do not inform parties how to appeal. Without instructions of a means of appeal, no meaningful opportunity for appeal exists, especially for someone who is not familiar with the system and in the context of Covid19 unemployment programs. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant appealed on March 3, 2022, the day she was first given the means to appeal and being informed of the decisions made by Iowa Workforce Development.

The next issue in this case is whether the claimant was overpaid 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 \$600.00 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

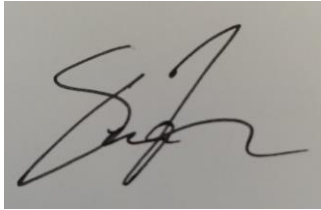
(f) Fraud and Overpayments

(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...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). The claimant was overpaid \$4,800.00 in Federal Pandemic Unemployment Compensation (FPUC).

**DECISION:**

The unemployment insurance decision dated September 21, 2021, (reference 03), is affirmed. The claimant was overpaid \$4,800.00 in Federal Pandemic Unemployment Compensation (FPUC).



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Sean M. Nelson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 725-9067

April 29, 2022  
Decision Dated and Mailed

smn/mh

*Note to Claimant:* This decision determines you have been overpaid FPUC under the CARES Act. 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. Additionally, instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/application-overpayment-waiver>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.