

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

TIMOTHY A SCHUMACHER

Claimant

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HEARING NUMBER: 21B-UI-11373

**EMPLOYMENT APPEAL BOARD
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: 116-136

D E C I S I O N

The 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. With the following modification, 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** with the following **MODIFICATION**:

The Board modifies the Findings of Fact to add the following.

We set out the payments to the Claimant. Note that the weekly PUA benefit is calculated slightly differently than regular benefits since, by statute, the weekly PUA benefit is calculated using a different base period, namely, calendar year 2019. Here the regular benefit WBA was \$318, but the PUA calculated to \$294 because the high quarter in the regular base period is not in calendar year 2019. The specified amount was paid in PUA. Also note that by statute 2020 FPUC is not payable for benefit weeks ending before March 29, 2020, nor after BWE July 25, 2020. The 2021 FPUC (which is in the lower amount of \$300 a week) is first payable in BWE 1/2/2021. In this chart "week paid" means the week of unemployment the payment is to cover, and the date following the listed amounts is the date the money was actually transferred to the Claimant:

Week Paid (BWE)	Reg/PEUC Amt/Date	PUA Amt/Date	FPUC/LWA (Reg) Amt/Date	FPUC/LWA (PUA) Amt/Date
03/28/20	318 on 3-30-20	294 on 4/5/21	N/A	N/A
04/04/20	318 on 4-06-20	294 on 4/5/21	600 on 4-29-20	600 on 4-05-21
04-11-20	318 on 4-13-20	294 on 4/5/21	600 on 4-14-20	600 on 4-05-21
04-18-20	318 on 4-20-20	294 on 4/5/21	600 on 4-21-20	600 on 4-05-21
04-25-20	318 on 4-27-20	294 on 4/5/21	600 on 4-28-20	600 on 4-05-21
05-02-20	318 on 5-04-20	294 on 4/5/21	600 on 5-05-20	600 on 4-05-21
05-09-20	318 on 5-11-20	294 on 4/5/21	600 on 5-12-20	600 on 4-05-21
05-16-20	318 on 5-19-20	294 on 4/5/21	600 on 5-20-20	600 on 4-05-21
05-23-20	318 on 5-26-20	294 on 4/5/21	600 on 5-27-20	600 on 4-05-21
05-30-20	318 on 6-01-20	294 on 4/5/21	600 on 6-02-20	600 on 4-05-21
06-06-20	318 on 6-08-20	294 on 4/5/21	600 on 6-09-20	600 on 4-05-21
06-13-20	318 on 6-15-20	294 on 4/5/21	600 on 6-16-20	600 on 4-05-21
06-20-20	318 on 6-22-20	294 on 4/5/21	600 on 6-23-20	600 on 4-05-21
06-27-20	318 on 6-29-20	294 on 4/5/21	600 on 6-30-20	600 on 4-05-21
07-04-20	318 on 7-06-20	294 on 4/5/21	600 on 7-07-20	600 on 4-05-21
07-11-20	318 on 7-13-20	294 on 4/5/21	600 on 7-14-20	600 on 4-05-21
07-18-20	318 on 7-20-20	294 on 4/5/21	600 on 7-21-20	600 on 4-05-21
07-25-20	318 on 7-27-20	294 on 4/5/21	600 on 7-28-20	600 on 4-05-21
			LWA Starts	
08-01-20	318 on 8-03-20	294 on 4/5/21	300 on 9-04-20	
08-08-20	318 on 8-10-20	294 on 4/5/21	300 on 9-04-20	
08-15-20	318 on 8-17-20	294 on 4/5/21	300 on 9-04-20	
08-22-20	318 on 8-24-20	294 on 4/5/21	300 on 9-04-20	
08-29-20	123.63 8-31-20	294 on 4/5/21	300 on 9-04-20	
	PEUC Starts			
09-05-20	318 on 9-08-20	294 on 4/5/21	300 on 9-09-20	
09-12-20	318 on 9-14-20	294 on 4/5/21		
9/19/2020		294 @ 12-23-20		
9/26/2020		294 @ 12-23-20		
10/3/2020		294 @ 12-23-20		
10/10/2020		294 @ 12-23-20		
10/17/2020		294 @ 12-23-20		
10/24/2020		294 @ 12-23-20		
10/31/2020		294 @ 12-23-20		
11/7/2020		294 @ 12-23-20		
11/14/2020		294 @ 12-23-20		
11/21/2020		294 @ 12-23-20		
11/28/2020		294 @ 12-23-20		
12/5/2020		294 @ 12-23-20		
12/12/2020		294 @ 12-23-20		
12/19/2020		294 @ 12-23-20		
12/26/2020		294 @ 12-22-20		
1/2/2021		294 @ 02-15-21		300 on 2-15-21
1/9/2021		294 @ 02-15-21		300 on 2-15-21
1/16/2021		294 @ 02-15-21		300 on 2-15-21
1/23/2021		294 @ 02-15-21		300 on 2-15-21
1/30/2021		294 @ 02-15-21		300 on 2-15-21
2/6/2021		294 @ 02-15-21		300 on 2-15-21
2/13/2021		294 @ 02-16-21		300 on 2-16-21
2/20/2021		294 @ 02-23-21		300 on 2-23-21
2/27/2021		294 @ 03-02-21		300 on 3-02-21
3/6/2021		294 @ 03-10-21		300 on 3-10-21
3/13/2021		294 @ 03-16-21		300 on 3-16-21
3/20/2021		294 @ 03-23-21		300 on 3-23-21
Total	\$7,119.63 Reg. \$ 636.00 PEUC	\$15,288 PUA [\$3,675 as offset]	\$10,200 FPUC \$ 1,800 LWA	\$10,200 FPUC 20 \$ 3,600 FPUC 21 \$ 0 LWA

The Board adds the following discussion to the **Reasoning and Conclusions of Law**:

The payment numbers are larger than actually transferred to the Claimant because 15% taxes were withheld. Withholding is the result of claimant election. In the following we give the gross numbers, disregarding withholding.

In 2020 for the 23 weeks ending August 29, 2020 the Claimant was paid \$7,119.63 in regular benefits, then for the two weeks ending September 12, 2020 he was paid \$636 in PEUC. Then in 2021 he was paid to cover the same 25 weeks \$7,350 in PUA benefits which is \$294 a week. Again the \$405.63 less in PUA is due to the lesser weekly benefit amount, offset somewhat by the fact that in the week ending August 29, 2020 the Claimant got paid out the balance of his regular benefits, but got paid for that week the full amount of PUA. In addition, in 2020 the Claimant received 17 weeks of FPUC at \$600, which is \$10,200. In 2021 the Claimant was paid a second round of FPUC benefits to cover these same seventeen weeks, for a second payment of \$10,200.

Outside the 25 weeks in question the Claimant has received an additional 27 weeks at \$294 a week, a total of \$7,938 in PUA. He also got 2021 FPUC, at \$300 a week, for 12 weeks, a total of \$3,600 in 2021 FPUC. None of this \$ 11,538 is overpaid.

All told the Claimant has gotten \$48,843.63 (about 230% of his base period earnings) in various benefits paid (less withholding), and he was only due \$30,888 (about 145% of his earnings in the base period). He owes back the difference of \$17,955.63 which breaks down as a \$7,119.63 regular overpayment, a \$10,200 FPUC overpayment, and a \$636 PEUC overpayment.

Yes, it would be nice that instead of double paying, and then asking for the second round of money back that IWD instead simply offset the overpayment. But PUA and regular benefits come from different benefit accounts, and federal law does not permit full offset of state overpayments using PUA benefits. So what IWD does when it has a regular benefit overpayment for a PUA-approved claimant is to offset regular benefits using, at most, half of the PUA and then pay out the other half. Then IWD would overpay the half of the regular benefits which had not already been offset. Sometimes, IWD pays **full** PUA benefits and overpays the entire round of regular benefits. So what the Claimant got was PUA **plus** regular benefits **plus two** rounds of FPUC. He is due only one round of FPUC, and *either* PUA or regular benefits, not both at the same time. He only got one round of LWA and is not overpaid that, and we deal with this elsewhere.

The bottom line is the Claimant has been paid two rounds of FPUC for the same 17 weeks. This is not a case where the Claimant was paid once for a week of unemployment and is now asked for it back. Instead the Claimant was paid twice for a single week of unemployment, and he is asked for one of the two payment back. People only get paid one week of wages for one week of working, and they only get paid one week of benefits for one week of not working. That he was due, **and has been paid** PUA, plus attendant FPUC benefits, **for the same period** provides him money to pay back the double payment but it doesn't wipe away

the debt. Were it otherwise he'd be keeping twice the money he was due for the seventeen weeks in question. He's been paid twice. He should only be paid once. He owes the difference.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv