

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARIE E OTTO
Claimant

APPEAL NO. 22A-UI-05952-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
PL 116-136, Sec. 2017- Pandemic Emergency Unemployment Compensation

STATEMENT OF THE CASE:

On March 6, 2022, Marie Otto (claimant/appellant) appealed the Iowa Workforce Development ("IWD") decision dated February 24, 2022 (reference 03) that concluded the claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$6,647.00 between September 27, 2020 and March 13, 2021 as a result of a prior decision denying benefits.

A telephone hearing was held on April 18, 2022, pursuant to due notice. Claimant participated personally. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant overpaid Pandemic Emergency Unemployment Compensation (PEUC)?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The administrative record shows claimant received PEUC in the amount of \$6,647.00 from the benefit week ending October 3, 2020 and continuing through the benefit week ending March 13, 2021.

Claimant was subsequently determined to be disqualified from benefits during that period in a decision dated February 23, 2022. That decision has now been modified with no change in effect. See 22A-UI-05950-AD-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated February 24, 2022 (reference 03) that concluded the claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$6,647.00 between September 27, 2020 and March 13, 2021 as a result of a prior decision denying benefits is AFFIRMED.

Iowa Code section 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. 2107 provides, in pertinent part:

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL. — Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the “Secretary”). Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(2) PROVISIONS OF AGREEMENT.— Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(D) are able to work, available to work, and actively seeking work.

...

(e) FRAUD AND OVERPAYMENTS.—

(2) REPAYMENT.—In the case of individuals who have received amounts of pandemic emergency unemployment compensation under this section to which they were not entitled, the State shall require such individuals to repay the amounts

of such pandemic emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such pandemic emergency 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 pandemic emergency unemployment compensation payable to such individual under this section 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 pandemic emergency 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.

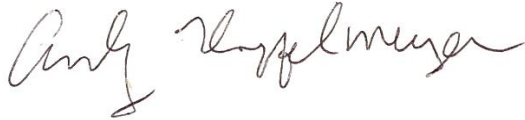
The administrative record shows claimant received PEUC in the amount of \$6,647.00 from the benefit week ending October 3, 2020 and continuing through the benefit week ending March 13, 2021.

Claimant was subsequently determined to be disqualified from benefits during that period in a decision dated February 23, 2022. That decision has now been modified with no change in effect. See 22A-UI-05950-AD-T.

Because the claimant is disqualified from UI she is also ineligible for PEUC. Claimant has therefore been overpaid PEUC in the amount of \$6,647.00.

DECISION:

The decision dated February 24, 2022 (reference 03) that concluded the claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$6,647.00 between September 27, 2020 and March 13, 2021 as a result of a prior decision denying benefits is AFFIRMED.



Andrew B. Duffelmeyer
Administrative Law Judge

April 21, 2022
Decision Dated and Mailed

abd/abd

Note to Claimant:

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.

If this decision determines you have been overpaid federal pandemic-related benefits you may request a waiver of the overpayment. Instructions for requesting a waiver can be found 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.