

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

HUIRU FENG
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT
INTEGRITY BUREAU**

APPEAL 23A-UI-03778-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/14/21
Claimant: Appellant (1R)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Huiru Feng, the claimant/appellant filed an appeal from the Iowa Workforce Development (IWD) March 28, 2023 (reference 02) unemployment insurance (UI) decision. The decision concluded that IWD overpaid Ms. Feng REGULAR (state) UI benefits in the total gross amount of \$2,392.00 for 23 weeks between March 14, 2021 and August 21, 2021 and Federal Pandemic Unemployment Compensation (FPUC) benefits in the total gross amount of \$3,900.00 for 13 weeks between March 14, 2021 and June 12, 2021. IWD concluded that it overpaid Ms. Feng because IWD's March 6, 2023 corrected monetary record (green sheet) concluded that Ms. Feng was not monetarily eligible for REGULAR (state) UI benefits because employers did not report enough wages for her Social Security Number during her base period (Fourth quarter of 2019 and First, Second and Third Quarter of 2020).

The Iowa Department of Inspections and Appeals UI Appeals Bureau mailed notices of hearing to Ms. Feng and IWD. The undersigned administrative law judge held a telephone hearing on April 26, 2023. The undersigned heard Appeals 23A-UI-03776-DZ-T and 23A-UI-03778-DZ-T together and created one hearing record. Ms. Feng participated personally through a Mandarin Chinese interpreter from CTS Language Link. Zehui Ren Ms. Feng's brother, testified in her favor through a Mandarin Chinese interpreter from CTS Language Link. IWD did not participate in the hearing. The undersigned took official notice of the administrative record and admitted Claimant's Exhibit 1 as evidence.

ISSUES:

Did IWD overpaid Ms. Feng REGULAR (state) UI benefits?
Did IWD overpaid Ms. Feng FPUC benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Feng filed an initial claim for REGULAR (state) UI benefits effective March 14, 2021. IWD set her weekly UI benefit amount at \$104.00.

Ms. Feng filed weekly UI claims for 23 weeks between March 14, 2021 and August 21, 2021. Based on the wages she reported to IWD, IWD sent Ms. Feng REGULAR (state) UI benefits of

\$104.00 each week for those 23 weeks for a total gross amount of \$2,392.00. IWD also sent Ms. Feng FPUC benefits of \$300.00 each week for 13 weeks between March 14, 2021 and June 12, 2021 for a total gross amount of \$3,900.00. When IWD sent Ms. Feng these benefits, IWD had not yet decided if she was eligible for UI benefits.

FPUC was a program under the CARES Act that provided additional payment to those individuals that are receiving state or federal unemployment insurance payments. It is funded by the federal government, not by state unemployment taxes paid by employers. The Continued Assistance for Unemployed Workers Act of 2020 and American Rescue Act of 2021 extended FPUC benefits for weeks of unemployment to September 6, 2021. The FPUC amount was \$300.00 per week from December 27, 2020 through September 5, 2021.

Over one-and-a-half years after IWD last sent Ms. Feng UI benefits, IWD mailed Ms. Feng a March 6, 2023 corrected monetary record that concluded Ms. Feng was not monetarily eligible for REGULAR (state) UI benefits because employers did not report enough wages for her Social Security Number during her base period (Fourth quarter of 2019 and First, Second and Third Quarter of 2020). Ms. Feng appealed the corrected monetary record. The undersigned's decision in Appeal 22A-UI-03776-DZ-T affirmed the corrected monetary record, pending remand.

Ms. Feng denies that she ever worked for any Iowa employer. Ms. Feng was out of the country from December 2019 through March 13, 2020. Ms. Feng denies that she ever filed a UI claim. Ms. Feng and her brother testified that they suspect Ms. Feng's now-deceased husband may have filed the UI claim in her name because they heard this from other people.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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. 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...

In this case, IWD overpaid Ms. Feng REGULAR (state) UI benefits in the total gross amount of \$2,392.00 for 23 weeks between March 14, 2021 and August 21, 2021. The reason Ms. Feng overpaid is because he is not eligible to receive these benefits because of the March 6, 2023 corrected monetary record that was affirmed by the undersigned's decision in Appeal 23A-UI-03776-DZ-T. Since Ms. Feng is not eligible for REGULAR (state) UI benefits, she is also not eligible for FPUC benefits. IWD overpaid Ms. Feng FPUC benefits in the total gross amount of \$3,900.00 for 13 weeks between March 14, 2021 and June 12, 2021.

Since Ms. Feng disputes that she filed this UI claim and she never worked in Iowa, this matter should be remanded (sent back) to IWD for investigation and any appropriate action.

DECISION:

The March 28, 2023 (reference 02) UI decision is AFFIRMED, PENDING REMAND. IWD overpaid Ms. Feng REGULAR (state) UI benefits in the total gross amount of \$2,392.00 and FPUC benefits in the total gross amount of \$3,900.00. Ms. Feng is required to repay these benefits.

REMAND:

The issue of identity theft, including but not limited to, who filed the UI claim in Ms. Feng's name, is REMANDED (sent back) to the IWD Integrity Investigation and/or Investigation and Recovery Bureau for investigation and any appropriate action.



Daniel Zeno
Administrative Law Judge

May 3, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly 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.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.