

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SAMANTHA S SEIBERT
Claimant

APPEAL NO. 21A-UI-07156-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 04/12/20
Claimant: Appellant (3)

Public Law 116-136, §2104 - Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 2, 2021, reference 03, decision that held the claimant was overpaid \$4,200.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for seven weeks ending July 25, 2020, based on a September 22, 2020 Employment Appeal Board decision that disqualified the claimant for benefits in connection with a discharge from employment with McDermott Oil Company. After due notice was issued, a hearing was held on May 1, 2021. The claimant participated in the hearing. There were three appeal numbers set for an consolidated hearing: 21A-UI-07155-JTT, 21A-UI-07156-JTT and 21A-UI-07158-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, the June 29, 2020 (reference 01) decision, the administrative law judge decision in Appeal Number 20A-UI-07415-B2T. The claimant waived the defects in the hearing notice.

ISSUE:

Whether the claimant was overpaid \$4,200.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for seven weeks ending July 25, 2020, based on a September 22, 2020 Employment Appeal Board decision that disqualified the claimant for benefits in connection with a discharge from employment with McDermott Oil Company.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective April 12, 2020. The claimant received \$7,811.77 in regular benefits for the period of April 12, 2020 through September 19, 2020. The claimant received \$8,400.00 in Federal Pandemic Unemployment Compensation (FPUC) for 14 weeks between April 12, 2020 and July 25, 2020. The claimant received \$1,500.00 in Lost Wages Assistance Payments for five weeks between July 26, 2020 and August 29, 2020.

On June 29, 2020, an Iowa Workforce Development Benefits Bureau deputy entered a reference 01 decision that allowed benefits to the claimant, provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was discharged from employment with McDermott Oil Company for no disqualifying reason. The employer appealed the decision.

On August 14, 2020, an administrative law judge entered a decision in Appeal Number 20A-UI-07415-B2T that affirmed the reference 01 decision. The employer appealed the administrative law judge's decision. On September 22, 2020, the Employment Appeal Board entered a decision in Hearing Number 20B-UI-07415 that reversed the administrative law judge's decision. The Employment Appeal Board held that the claimant was disqualified for benefits, based on the Board's determination that the claimant was discharged on March 24, 2020 for disqualifying misconduct in connection with the employment. Based on the rule of two affirmances, the Board held that the claimant was not required to repay the regular unemployment insurance benefits received, but held the claimant could be assessed for the FPUC benefits she received. The Board did not address LWAP benefits. See Hearing Number 20B-UI-07415, page 3. The claimant did not file a petition for judicial review to challenge the Board's decision and the Board's decision became final.

REASONING AND CONCLUSIONS OF LAW:

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, except that the State agency may waive such repayment if it determines that—

(A) the payment of such Federal Pandemic 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 Federal Pandemic Unemployment Compensation payable to such individual 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 Federal Pandemic 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.

(B) Opportunity for hearing.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(4) Review.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

Because the Board's decision disqualified the claimant for unemployment insurance benefits, the \$8,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits the claimant received for 14 weeks between April 12, 2020 and July 25, 2020 is an overpayment of benefits. The claimant must repay the overpaid FPUC benefits unless she applies for and is approved for waiver of repayment of FPUC benefits. See below.

DECISION:

The March 2, 2021, reference 03, decision is modified adverse to the claimant as follows. The claimant was overpaid \$8,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for 14 weeks between April 12, 2020 and July 25, 2020. The claimant must repay the overpaid FPUC benefits unless she applies for and is approved for waiver of repayment of FPUC benefits. See below.



James E. Timberland
Administrative Law Judge

August 31, 2021
Decision Dated and Mailed

jet/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/unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.