

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROL MUSSER
Claimant

APPEAL 20A-UI-15554-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 04/05/2020
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Carol Musser, the claimant/appellant, appealed the November 6, 2020, (reference 03) unemployment insurance decision that concluded she was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits. Ms. Musser was properly notified of the hearing. A telephone hearing was held on January 16, 2021. Ms. Musser participated and testified. Official notice was taken of the administrative record.

ISSUE:

Has Ms. Musser been overpaid FPUC benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Musser received FPUC benefits in the amount of \$2,400.00 for 4 weeks between May 3, 2020 and June 6, 2020.

On June 15, 2020, Iowa Workforce Development issued a reference 01 decision denying Ms. Musser REGULAR UI benefits. That decision was affirmed by the administrative law judge's decision dated November 2, 2020.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes Ms. Stewart has been overpaid FPUC benefits.

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...

Because Ms. Musser is disqualified from receiving regular UI benefits, she is also disqualified from receiving FPUC benefits. While Iowa law does not require a claimant to repay regular UI benefits when the employer does not participate in the fact-finding interview, the CARES Act makes no such exception for the repayment of FPUC benefits. Therefore, the determination of whether Ms. Musser must repay FPUC benefits does not hinge on the employer's participation in the fact-finding interview. The administrative law judge concludes that Ms. Musser has been overpaid FPUC benefits in the gross amount of \$2,400.00 for 4 weeks between May 3, 2020 and June 6, 2020.

DECISION:

The November 6, 2020, (reference 03) unemployment insurance decision is affirmed. Ms. Musser has been overpaid FPUC benefits in the amount of \$2,400.00.



Daniel Zeno
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February 2, 2021
Decision Dated and Mailed

dz/kmj