

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**NATALYE M MCKENRICK**  
Claimant

**APPEAL 23A-UI-10066-PT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20**  
**Claimant: Appellant (2)**

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Public Law 116-136, sec. 2104 – Federal Pandemic Unemployment Compensation  
Public Law 116-136, sec. 2107 – Federal Pandemic Emergency Unemployment Compensation

**STATEMENT OF THE CASE:**

The claimant, Natalye McKenrick, filed an appeal from the October 17, 2023 (reference 03) unemployment insurance decision that denied claimant's application to waive her overpayments of Federal Pandemic Unemployment Compensation ("FPUC") benefits and Federal Pandemic Emergency Unemployment Compensation ("PEUC") benefits. The parties were properly notified of the hearing. A telephonic hearing was held on November 8, 2023. The claimant participated personally. Iowa Workforce Development (IWD) did not participate. The administrative law judge took official notice of the administrative record.

**ISSUES:**

May the claimant's PEUC overpayment balance be waived?  
May the claimant's FPUC overpayment balance be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for unemployment insurance benefits with an effective date of March 15, 2020. After claimant exhausted her regular State of Iowa funded unemployment insurance benefits, claimant received PEUC benefits in the gross amount of \$726.00 for nine weeks between December 27, 2020 and March 6, 2021. During those nine weeks, claimant also received supplemental FPUC benefits in the gross amount of \$2,700.00.

During the nine weeks between December 27, 2020 and March 6, 2021, claimant worked part-time hours as a bartender for Wild Rose Clinton LLC. Prior to returning to work, claimant contacted IWD and spoke with a representative about whether she was still eligible for benefits if she returned to work part-time. The representative told claimant that she was still eligible for benefits, but informed claimant that she would need to report the wages she earned each week that she filed a claim for benefits. Claimant did her best to report the wages she earned each week that she filed a claim for benefits. However, as a bartender, a significant portion of claimant's income came from tips, and claimant sometimes found it difficult to estimate the amount she earned in tips each week.

On April 29, 2022, more than a year after IWD had sent claimant PEUC and FPUC benefits, IWD mailed claimant two non-fraud overpayment unemployment insurance (UI) decisions. The April 29, 2023, (reference 01) decision concluded IWD overpaid claimant PEUC benefits in the total gross amount of \$726.00 for nine weeks between December 27, 2020 and March 6, 2021. The April 29, 2022, (reference 02) decision concluded IWD overpaid claimant FPUC benefits in the total gross amount of \$2,700.00 for nine weeks between December 27, 2020 and March 6, 2021. Both decisions list the reason for the overpayment as claimant did not report or incorrectly reported wages from employer Wild Rose Clinton LLC. Claimant testified that she did not appeal the decisions because in 2022, she had undergone multiple surgical procedures and, around that time, she was “feeling rather defeated.” This means both decisions remain in effect and are not changed.

Claimant subsequently filed an application for waiver of the overpayment of benefits. On October 17, 2023, IWD mailed claimant the reference 03 UI decision. This decision denied claimant’s application to waive the PEUC and FPUC overpayments because IWD concluded claimant did not properly report her wages when she filed her weekly UI claims.

Claimant used the benefits received to pay for necessary living expenses, including, food, shelter and clothing. Claimant’s monthly income did not cover her monthly expenses during the pandemic, and she incurred significant debt due to being off work because of her surgical procedures, which claimant has worked diligently to pay off. Claimant currently earns approximately \$1,000 per month as a bartender. After claimant pays her monthly bills, she has little to no money left over. Claimant has no savings to apply to the overpayment.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes IWD’s payment of PEUC and FPUC benefits was without fault on the part of claimant and the entirety of the \$3,426.00 CARES Act overpayment is waived.

The CARES Act, as outlined below, provides that a State agency may waive repayment of an overpayment in certain circumstances.

#### **FEDERAL PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION (PEUC)**

PL 116-136 Section 2107 of the CARES Act created PEUC, a new temporary federal benefit program that provided up to 13 additional weeks of benefits to individuals who (1) had exhausted all rights to regular unemployment compensation under state or federal law with respect to a benefit year, (2) had no right to compensation with respect to a week under state or federal law, (3) were not receiving compensation under Canadian law and (4) were able to, available for and actively seeking work. This initial program ran from March 29, 2020 through December 26, 2020.

On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes Division N, Title II, Subtitle A, the Continued Assistance Act. Section 206 reauthorized the PEUC program through March 14, 2021 (plus an additional phase-out period) and increased the number of weeks from 13 to 24. On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (ARPA). Section 9016 of ARPA extends the PEUC program through September 6, 2021 and increased the number of weeks from 24 to 53.

On May 11, 2021, Governor Reynolds announced that Iowa would end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PEUC benefits in Iowa was the week ending June 12, 2021.

The CARES Act provides that a State agency may waive repayment of an overpayment in certain circumstances.

PL 116-136, Sec. 2107(e)(2) provides:

**PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.**

**(e) Fraud and Overpayments. –**

- (1) In general. – If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of pandemic emergency unemployment compensation under this section to which such individual was not entitled, such individual –
  - (A) shall be ineligible for further pandemic emergency unemployment compensation under this section in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and
  - (B) shall be subject to prosecution under section 1001 of title 18, United States Code.
- (2) Repayment. – In the case of individuals who have received amounts of pandemic emergency unemployment compensation 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.

**FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION (FPUC)**

PL 116-136 Section 2104 of the CARES Act created a program in which an additional \$600.00 per week was payable to claimants who were eligible for at least \$1.00 per week in benefits stemming from other programs including regular unemployment insurance funded by the State of Iowa, Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, Iowa Extended benefits, and Trade Act benefits. This initial program ran from March 29, 2020 through July 25, 2020. Claimants were only eligible to receive FPUC payments if they were entitled to receive benefits from another applicable program. The payments of FPUC benefits were automatic so long as a claimant was determined to be eligible under one of the other applicable programs.

On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes Division N, Title II, Subtitle A, the Continued Assistance Act. Section 203 reauthorized the FPUC program for weeks of unemployment beginning after December 26, 2020 and ending on or before March 14, 2021 and modified the weekly supplement payment to \$300.00. On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (ARPA). Section 9103 of ARPA amends Section 2104 of the CARES Act of 2020 and extended the FPUC program for weeks of unemployment ending on or before September 6, 2021.

On May 11, 2021, Governor Reynolds announced that Iowa would end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for FPUC benefits in Iowa was the week ending June 12, 2021.

The CARES Act provides that a State agency may waive repayment of an overpayment in certain circumstances.

PL 116-136, Sec. 2104(f)2 provides:

**EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.**

**(f) Fraud and Overpayments. –**

(3) In general. – If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual –

(C) Shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(D) Shall be subject to prosecution under section 1001 of title 18, United States Code.

(4) 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 amount of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that –

(C) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual and;

(D) such repayment would be contrary to equity and good conscience.

**WAIVER CRITERIA**

In determining whether the payment of PEUC and FPUC benefits was without fault on the part of the claimant, several factors must be considered. Those factors include whether a material statement or representation was made by the claimant in connection with the application for

benefits and whether the claimant knew or should have known that the statement was inaccurate; whether the claimant failed or caused another to fail to disclose a material fact in connection with the application for benefits that resulted in the overpayment and whether the claimant knew or should have known that the fact was material; whether the claimant knew or could have been expected to know that they were not entitled to the compensation payment; and whether the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the claimant or of which the claimant had knowledge and which was erroneous or inaccurate or otherwise wrong. *Cf.* Iowa Admin. Code r. 871-24.50(7) (factors for waiver of temporary extended unemployment compensation).

In deciding whether repayment would be contrary to equity and good conscience, several factors must be considered. Those factors include whether repayment would cause financial hardship to the claimant; or, that the claimant (regardless of financial circumstances) can establish that they have relinquished a valuable right or changed positions for the worse; or, recovery would be unconscionable under the circumstances. See UIPL No. 20-21(4)d. Other factors include whether the overpayment was the result of a decision on appeal; whether the state agency had given notice to the claimant that they may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal; and whether recovery of the overpayment will cause financial hardship to the claimant. *Cf.* Iowa Admin. Code r. 871-24.50(7) (factors for waiver of temporary extended unemployment compensation).

## **ANALYSIS**

In this case, claimant made no material misstatements or misrepresentations when she filed for UI benefits. Claimant did not know, and had no reason to know, that IWD would later determine that she was ineligible for benefits after IWD had already sent her the benefits. The PEUC and FPUC overpayments were not a direct result of any knowing actions or omissions on the part of claimant. As such, IWD's payment of PEUC and FPUC benefits to claimant was without fault on the part of claimant.

Regarding the second prong of the analysis – whether repayment of the PEUC and FPUC benefits would be contrary to equity and good conscience – claimant has established that recovery of the PEUC and FPUC overpayments would be a financial hardship to her. Even though claimant is receiving more household income now, requiring her to repay these benefits, in light of the economic effects of the global COVID-19 pandemic, would create a hardship on her. The entirety of the \$726.00 PEUC overpayment and the \$2,700.00 FPUC overpayment are waived. Claimant has no obligation to repay those benefits received.

**DECISION:**

The October 17, 2023 (reference 03) unemployment insurance decision is reversed. Claimant's PEUC overpayment in the amount of \$726.00 is waived. Claimant's FPUC overpayment in the amount of \$2,700.00 is waived. The claimant is not obligated to pay back the PEUC or FPUC benefits received.



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Patrick B. Thomas  
Administrative Law Judge

November 17, 2023  
Decision Dated and Mailed

pbt/scn

**APPEAL RIGHTS.** If you disagree with the 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:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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 adquiriera 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.