

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

CHRISTINE V ALBERS
Claimant

APPEAL 22A-UI-17337-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/21/20
Claimant: Appellant (4R)**

PL 116-136, Sec. 2104(f) – Federal Pandemic Unemployment Compensation Waiver
PL 116-136, Sec. 9021(d)(4) – Pandemic Emergency Unemployment Compensation Waiver
PL 116-262, Sec. 262(b) – Lost Wages Assistance Program Waiver

STATEMENT OF THE CASE:

Claimant filed an appeal from the September 13, 2022 decision that denied claimant's application to waive repayment of overpayments of Federal Pandemic Unemployment Compensation ("FPUC"), Federal Pandemic Emergency Unemployment Compensation ("PEUC"), and Lost Wages Assistance Program ("LWAP") benefits. Claimant was properly notified of the hearing. A telephone hearing was held at 2:00 p.m. on Tuesday, October 18, 2022. Claimant Christine V. Albers participated. The administrative law judge took official notice of the administrative record.

ISSUE:

Whether claimant's PEUC overpayment balance can be waived.
Whether waiver of claimant's FPUC overpayment balance and LWAP overpayment balance is now moot.

FINDINGS OF FACT:

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

Claimant filed an original claim for regular unemployment insurance benefits effective June 21, 2020. Claimant was paid FPUC benefits in the gross amount of \$3,000.00; PEUC benefits in the gross amount of \$4,329.00; and LWAP benefits in the gross amount of \$1,800.00 between June 21, 2020 and November 14, 2020.

PEUC benefits were initially paid to claimant because no initial determination had yet been made finding the claimant ineligible for benefits. Claimant used her PEUC benefits to pay for necessary expenses, and her living expenses during the relevant time period exceeded her income. She has minimal savings with which to repay her PEUC overpayment.

In a decision dated December 4, 2020 (reference 02), it was determined that the claimant was not eligible for regular unemployment insurance benefits. Claimant was then determined to be overpaid regular unemployment insurance benefits – and the FPUC benefits, PEUC benefits, and LWAP benefits she received along with those regular unemployment insurance benefits.

Claimant filed the initial application for PUA benefits on June 22, 2020, and she filed subsequent applications for PUA benefits on December 8 and December 9, 2020. In an initial decision dated January 4, 2021 (reference 09), claimant was found ineligible for PUA benefits. Claimant did not receive that decision, but after she was notified of the decision and expressed that she wanted to appeal that decision, an administrative law judge found that she timely appealed the decision and was eligible for PUA benefits. See 22A-DUA-00085-LJ-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's overpayment balance of PEUC benefits must be waived, and the issue of whether the overpayment balances of FPUC benefits and LWAP benefits must be waived is now moot.

Claimant received PEUC benefits after exhausting her regular unemployment. 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.

In determining whether the payment of PEUC 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).

Claimant was initially found eligible for PEUC benefits; however, claimant was later determined to be ineligible for those benefits. Claimant made no material misstatements or misrepresentations when filing for benefits. Claimant did not know or should not have known that they would be denied PEUC benefits at a later date. The overpayment was not a direct result of any knowing actions or omissions of the claimant. As such, the payment of PEUC benefits was without fault on the part of the claimant. Further, based upon claimant's financial circumstances, repayment of the overpayment would cause claimant a financial hardship.

As such, claimant's repayment of the PEUC overpayment in the amount of \$4,329.00 shall be waived, and claimant has no obligation to repay those PEUC benefits received.

The second issue is the waiver of FPUC benefits and LWAP benefits balances. Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). “A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent.” *Iowa Bankers Ass’n v. Iowa Credit Union Dep’t*, 335 N.W.2d 439, 442 (Iowa 1983)

Claimant was initially found to be overpaid FPUC benefits, PEUC benefits, and LWAP benefits. This overpayment finding was the direct result of claimant being found ineligible for both regular unemployment insurance benefits (reference 02) and PUA benefits (reference 09). However, claimant has now appealed the PUA denial decision and been found eligible for PUA benefits. See 22A-DUA-00085-LJ-T. Therefore, claimant is once again eligible for the FPUC benefits, and LWAP benefits that she received—eligibility for those benefits hinges on being eligible for either regular unemployment insurance benefits or PUA benefits, and claimant has been found eligible for PUA benefits. Waiver of those benefits balances is moot.

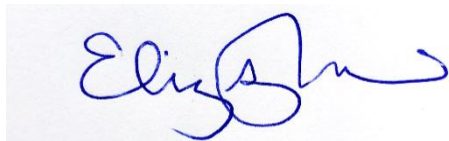
DECISION:

The September 13, 2022 (reference 08) decision is modified in favor of the claimant. Claimant's PEUC overpayment in the amount of \$4,329.00 is waived to the extent PUA benefits do not offset the PEUC benefits she received. The claimant is not obligated to pay back the PEUC benefits received.

The issue of whether FPUC benefits and LWAP benefits overpayment amounts are waived is moot, as claimant has now been awarded PUA benefits in 22A-DUA-00085-LJ-T.

REMAND:

This matter is remanded to the Benefits Bureau of Iowa Workforce Development to offset claimant's regular unemployment insurance benefits overpayment with her PUA benefits award.



Elizabeth A. Johnson
Administrative Law Judge

October 26, 2022
Decision Dated and Mailed

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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:

**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 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.