

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

MIKAH W ALBRIGHT
Claimant

APPEAL NO. 22A-UI-12042-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/06/20
Claimant: Appellant (1)**

P.L. 116-136, §2107 – Pandemic Emergency Unemployment Compensation Overpayment

STATEMENT OF THE CASE:

On May 10, 2022, Mikah Albright (claimant) filed a timely appeal from the May 2, 2022 (reference 03) decision that held the claimant was overpaid \$798.00 in Pandemic Emergency Unemployment Compensation (PEUC) for four weeks between May 9, 2021 and June 5, 2021, due to the December 22, 2021 decision that denied PEUC benefits effective May 9, 2021. After due notice was issued, a hearing was held on June 27, 2022. Claimant participated. There were three appeal numbers set for a consolidated hearing: 22A-UI-12040-JT-T, 22A-UI-12042-JT-T and 22A-UI-12043-JT-T. Exhibit A, the online appeal, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: the reference 02, 03 and 04 decisions, DBIN, KPYX, WAGE-A, WAGE-B

ISSUE:

Whether the claimant was overpaid \$798.00 in Pandemic Emergency Unemployment Compensation (PEUC) for four weeks between May 9, 2021 and June 5, 2021, due to the December 22, 2021 decision that denied PEUC benefits effective May 9, 2021.

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 December 6, 2020. Iowa Workforce Development set the weekly benefit amount at \$379.00. The claimant exhausted regular benefits during the benefit that ended May 8, 2021. The claimant then received \$798.00 in Pandemic Emergency Unemployment Compensation (PEUC) and \$1,200.00 Federal Pandemic Unemployment Compensation (FPUC) for four weeks between May 9, 2021 and June 5, 2021. The claimant's eligibility for the weekly FPUC benefits depended on the claimant's eligibility for PEUC or the same week.

On December 22, 2021, Iowa Workforce Development Benefits Bureau issued a reference 02 decision that denied Pandemic Emergency Unemployment Compensation (PEUC) effective May 9, 2021, based on the deputy's conclusion that the claimant appeared to be monetarily

eligible for regular benefits in Illinois. The reference 02 decision prompted and is the basis for the overpayment decision from which the claimant appeals in the present matter. The reference 02 decision has been affirmed in Appeal Number 22A-UI-12040-JT-T and remains in effect.

REASONING AND CONCLUSIONS OF LAW:

PL 116-136, Section 2107(e) provides, in relevant part, as follows:

(e) Fraud and overpayments

...

(2) Repayment

In the case of individuals who have received amounts of pandemic emergency unemployment compensation under this section 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.

(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 pandemic emergency unemployment compensation payable to such individual under this section 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 pandemic emergency 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 reference 02 decision denied PEUC benefits effective May 9, 2021, and because the reference 02 decision remains in effect, the \$798.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits the claimant received for four weeks between May 9, 2021 and June 5, 2021 is an overpayment of benefits. The claimant must repay the overpaid PEUC benefits unless the claimant applies for and is approved for waiver of repayment of PEUC benefits. See below.

DECISION:

The May 2, 2022 (reference 03) decision is affirmed. The claimant was overpaid \$798.00 in Pandemic Emergency Unemployment Compensation (PEUC) for four weeks between May 9, 2021 and June 5, 2021, due to the December 22, 2021 (reference 02) decision that denied PEUC benefits effective May 9, 2021. The claimant must repay the overpaid PEUC benefits unless the claimant applies for and is approved for waiver of repayment of PEUC benefits. See below.



James E. Timberland
Administrative Law Judge

September 9, 2022
Decision Dated and Mailed

jet/mh

Note to Claimant: This decision determines you have been overpaid PEUC under the CARES Act. If you disagree with this decision, you may file an appeal by following the instructions on the final page of this decision. Additionally, instructions for requesting a waiver of this PEUC overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a PEUC waiver, you will have to repay the PEUC benefits you received.

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>.

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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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