

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

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**DENISE M MERIDETH**  
Claimant

**APPEAL 22A-UI-17763-AR-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/08/20  
Claimant: Appellant (2)**

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PL 116-136, Sec. 2104(f) – Federal Pandemic Unemployment Compensation Waiver  
PL 116-136, Sec. 9021(D)(4) – Lost Wages Assistance Program Overpayment Waiver

**STATEMENT OF THE CASE:**

On September 28, 2022, the claimant filed an appeal from the September 19, 2022, (reference 05) unemployment insurance decision that denied claimant's application to waive repayment of Federal Pandemic Unemployment Compensation (FPUC) and Lost Wages Assistance Program (LWAP) overpayments. After due notice was issued, a telephone hearing was held on November 9, 2022. Claimant, Denise M. Merideth, participated personally. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Should repayment of the FPUC overpayment be waived?  
Should repayment of the LWAP overpayment be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an original claim for unemployment insurance benefits with an effective date of March 8, 2020, when her employment was impacted by the COVID-19 pandemic. Claimant was paid FPUC benefits in the amount of \$5,400.00 for the weeks between May 16, 2020, and July 25, 2020, based on her eligibility for unemployment insurance benefits. Claimant was paid LWAP benefits in the amount of \$1,500.00 for the five-week period ending August 29, 2020, also based on her eligibility for unemployment insurance benefits.

In a monetary determination dated February 21, 2021, (reference 04), wages were removed that had been added to claimant's claim by mistake. This caused claimant to be overpaid unemployment insurance benefits and caused her ineligibility for FPUC and LWAP for the weeks affected. At one point while filing claims for benefits, claimant called Iowa Workforce Development (IWD) because she feared that her benefits had been calculated incorrectly. The representative on the phone reassured claimant that her benefits were calculated correctly and directed her to keep filing.

Claimant used the benefits to pay for necessary living expenses during the height of the pandemic. Claimant's household income is estimated to be approximately \$4,000.00 per month. The household consists of claimant and her husband. Both claimant and her husband have significant medical bills and upcoming surgeries. The household is typically left with only \$200.00 after paying bills, and that money is used for things like groceries and gas. They have no savings with which to pay the overpayment.

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

For the reasons that follow, the administrative law judge concludes:

Public Law 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.

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

#### **EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.**

##### **(f) 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 Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual –

(A) 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
- (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 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 –
- (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.

In determining whether the payment of 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).

On August 8, 2020, President Trump issued a memorandum to provide additional financial assistance to those individuals receiving unemployment benefits that met the eligibility requirements of the program through a grant from FEMA. The Lost Wages Assistance (LWA) program required claimants to be eligible for a weekly benefit amount of at least \$100.00 and the LWA payment was made to claimants in combination with a payment of at least \$1.00 in benefits stemming from either State of Iowa funded unemployment insurance benefits, Federal Pandemic Emergency Unemployment Compensation (PEUC) benefits program, Pandemic Unemployment Assistance (PUA) program, Extended Benefits program, Voluntary Shared Work program, Short Term Compensation program, or Trade Act benefits program. The weekly benefit amount of the LWA program was \$300.00 and the program ran from July 26, 2020, through September 5, 2020.

The Continued Assistance For Unemployed Workers Act of 2020 provides in pertinent part:

Section 262. Lost Wages Assistance Recoupment Fairness.

(a) Definitions. – In this section –

- (1) the term “covered assistance” means assistance provided for supplemental lost wages payments under subsections (e)(2) and (f) of section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), as authorized under the emergency declaration issued by the President on March 13, 2020, pursuant to section (501)b of such Act (42

- U.S.C. 5191(b)) and under any subsequent major disaster declaration under section 401 of such Act (42 U.S.C. 5170) that supersedes such emergency declaration; and
- (2) the term “State” has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).
- (b) Waiver Authority For State Liability. – In the case of any individual who has received amounts of covered assistance to which the individual is not entitled, the State shall require the individual to repay the amounts of such assistance to the State agency, except that the State agency may waive such repayment if the State agency determines that –
- (1) the payment of such covered assistance was without fault on the part of the individual; and
  - (2) such repayment would be contrary to equity and good conscience.

In order to receive a waiver of LWA, the overpayment must be without fault on the part of the claimant and that repayment would be contrary to equity and good conscience. Factors in determining whether the overpayment was made without fault on the part of the claimant include: (1) whether the individual made a representation in connection with the claim for LWA that resulted in or contributed to the overpayment, and whether the individual knew or should have known that the representation inaccurate; (2) whether the individual failed, or caused another person to fail, to disclose a fact in connection with the individual that resulted in or contributed to the overpayment, and whether the individual knew or should have known that the fact was significant; (3) whether the individual accepted the funds and knew, or should have known that he or she was not entitled to the payment or that the payment amount was incorrect; and (4) whether, for any other reason, the overpayment amount resulted directly or indirectly, and partially or totally, from any act or omission of the individual which was erroneous, inaccurate, or otherwise wrong. *Cf.* Iowa Admin. Code r. 871—24.50 (waiver guidance for overpayments 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 paid FPUC and LWAP benefits due to their eligibility for unemployment insurance benefits; however, claimant was later determined to be ineligible for those benefits based on agency error when wages were added to claimant’s claim by mistake. Claimant made no material misstatements or misrepresentations when filing for benefits. Indeed, claimant feared that her claim was paying out more than it should, and sought assistance from IWD, who reassured claimant that her claim was correctly calculated. Claimant did not know or should not have known that they would be denied unemployment insurance 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 FPUC and LWAP 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 FPUC overpayment in the amount of \$5,400.00 shall be waived; claimant has no obligation to repay those FPUC benefits received.

Additionally, claimant's repayment of the LWAP overpayment in the amount of \$1,500.00 shall be waived; claimant has no obligation to repay those LWAP benefits received.

**DECISION:**

The September 19, 2022, (reference 05) unemployment insurance decision is REVERSED. Claimant's FPUC overpayment in the amount of \$5,400.00 is waived. The claimant is not obligated to pay back the FPUC benefits received. Claimant's LWAP overpayment in the amount of \$1,500.00 is waived. The claimant is not obligated to pay back the LWAP benefits received.



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Alexis D. Rowe  
Administrative Law Judge

November 15, 2022  
Decision Dated and Mailed

ar/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:

**Employment Appeal Board  
4<sup>th</sup> 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.