

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMMY L BROSMAN
Claimant

APPEAL 21A-UI-12088-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/03/20
Claimant: Appellant (1)

PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 6, 2021 (reference 03) unemployment insurance decision that found claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on July 22, 2021, at 3:05 p.m. Claimant participated with her attorney Jay Smith. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant is overpaid FPUC benefits.

FINDINGS OF FACT:

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

On July 27, 2020, a representative's decision was issued (reference 01) allowing claimant unemployment insurance (UI) benefits effective May 3, 2020. Employer appealed the decision.

On September 28, 2020, an administrative law judge (ALJ) issued a decision reversing the representative's decision and denying claimant UI effective May 3, 2020 (see appeal 20A-UI-09512-AD-T). As a result of the denial, the ALJ also determined claimant was overpaid UI in the gross amount of \$9,939.00 for the 20-week period between May 3, 2020 and September 19, 2020 and overpaid FPUC in the gross amount of \$7,200.00 for the 12-week period between May 3, 2020 and July 25, 2020. These FPUC payments (i.e. the payments resulting from claimant's eligibility for UI) were made to claimant weekly between May 14, 2020 and July 28, 2020. Claimant appealed the ALJ's decision to the Employment Appeal Board (EAB) and concurrently applied for Pandemic Unemployment Assistance (PUA) benefits.

On October 13, 2020, claimant was approved for PUA benefits effective May 3, 2020.

On November 2, 2020, the EAB issued a decision affirming the ALJ's decision denying UI benefits and finding claimant was overpaid UI and FPUC (see appeal 20B-UI-09512). Additionally, the EAB's decision waived claimant's repayment of the FPUC benefit overpayment. In its decision, the EAB noted claimant had been approved for PUA. The EAB did not state

whether claimant's eligibility for FPUC benefits resulting from her eligibility for PUA would be offset by the FPUC benefits she previously received and of which the EAB waived repayment.

Based upon claimant's eligibility for PUA, claimant received FPUC benefits in the gross amount of \$7,200.00 for the 12-week period between May 3, 2020 and July 25, 2020. These FPUC benefits were paid to claimant in a lump sum on March 30, 2021.

REASONING AND CONCLUSIONS OF LAW:

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

PL 116-136, 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, 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.

Claimant received FPUC benefits for the 12-week period between May 3, 2020 and July 25, 2020 based upon both her eligibility for UI and PUA. In other words, claimant received FPUC benefits twice for the same period of time. Therefore, claimant has received FPUC benefits to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid FPUC benefits in the amount \$7,200.00 for the 12-week period between May 3, 2020 and July 25, 2020. Those benefits must be recovered in accordance with Iowa law.

DECISION:

The April 6, 2021 (reference 03) unemployment insurance decision is affirmed. Claimant has been overpaid FPUC benefits in the amount of \$7,200.00, which must be repaid.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

July 30, 2021
Decision Dated and Mailed

acw/mh

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