

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

ANGELA R MICKENS
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL NO. 23A-UI-10197-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (6)

PL 116-136, §2104(f) – Waiver of FPUC Overpayment
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

On October 27, 2023, Angela Mickens (claimant) filed a late appeal from the July 19, 2023, (reference 04) decision that denied her request to waive repayment of a \$9,600.00 overpayment of Federal Pandemic Unemployment Compensation (FPUC). After due notice was issued, a hearing was held on November 14, 2023. Claimant participated. The Appeals Bureau sent hearing notice to Iowa Workforce Development Integrity Bureau, but IWD did not appear for the hearing. Exhibits A through G were received into evidence at the time of the hearing. The administrative law judge took official notice of the following Agency administrative records: the reference 01 through 05 (o.c. 04/03/20) decisions, DBRO, KPYX, WAGE-B, and NMRO. The administrative law judge took official notice of the July 17, 2023 overpayment waiver application, the Cares Act Financial Waiver Info spreadsheet, the Federal Overpayment Waiver Criteria Guidelines document, the August 7, 2021 overpayment waiver application, the December 29, 2021 waiver denial letter/notice/decision, and IWD email correspondence regarding IWD's decision to reconsider the December 29, 2021 waiver denial determination.

The administrative law judge left the hearing record open through November 16, 2023 for the limited purposes of (1) allowing the claimant the opportunity to submit paystubs for the period of April 1, 2020 through July 25, 2020 to address the disparity between the claimant's wage report and the quarterly wage reports submitted by the employer and (2) allowing the claimant to submit updated or additional medical bills statements or other relevant financial documents. The claimant submitted proposed materials for the administrative law judge's consideration. The administrative law judge notes among those unlabeled and unadmitted documents a privileged, confidential and irrelevant DHS report that should not have been shared with the Appeals Bureau and which will not be considered under any circumstances.

ISSUE:

Should the appellant's request to withdraw the appeal be granted.

FINDINGS OF FACT:

The claimant is the appellant in this matter. A hearing was held on November 14, 2023. On November 21, 2023, the administrative law judge submitted a decision to the Appeals Bureau word processing personnel. That administrative law judge decision has not yet been processed by the word processing personnel and has not been mailed to the claimant or to Iowa Workforce Development. In other words, the administrative law judge decision has not yet been "issued" within the meaning of the law. On November 25, 2023, the claimant/appellant requested that the appeal be withdrawn.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-26.8(1) provides:

- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

The administrative law judge concludes that the claimant's request to withdraw the appeal should be approved.

DECISION:

The claimant's request to withdraw the appeal is approved. The July 19, 2023, (reference 04) decision that denied the claimant's request to waive repayment of a \$9,600.00 overpayment of Federal Pandemic Unemployment Compensation (FPUC) remains in effect.



James E. Timberland
Administrative Law Judge

November 28, 2023
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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 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 las partes enumeradas.