

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

PHILLIP WILLIAMS
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO. 22A-UI-16268-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

P.L. 16-136, §2104 – Federal Pandemic Unemployment Compensation Overpayment

STATEMENT OF THE CASE:

On August 8, 2022, Phillip Williams (claimant) filed a timely appeal from the July 29, 2022 (reference 04) decision that held the claimant was overpaid \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for two weeks between January 24, 2021 and March 20, 2021, based on the deputy's conclusion the claimant incorrectly reported wages earned with Prestressed Casting Company. After due notice was issued, a hearing was held on September 15, 2022. Claimant participated. The hearing in this matter was consolidated with the hearing in Appeal Number 22A-UI-16266-JT-T. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBIN, KPYX and the Audit for Reported Wages. The IWD Request of Wages was not available to the administrative law judge at the time of the appeal hearing, but was addressed through the employer's testimony.

ISSUE:

Whether the claimant was overpaid \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for two weeks between January 24, 2021 and March 20, 2021, due to incorrectly reporting wages earned with Prestressed Casting Company.

FINDINGS OF FACT:

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

Phillip Williams (claimant) has at all relevant times been employed by Prestressed Casting Company as a full-time crane operator. The claimant's hourly wage during the relevant period was \$29.78 an hour.

The claimant established an original claim for benefits that was effective December 6, 2020. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$605.00. The claimant made weekly claims that included weekly claims for the 10 weeks between January 10, 2021 and March 20, 2021. For that period, the claimant reported wages and received regular benefits as follows:

<u>Benefit Week End Date</u>	<u>Reported Wages</u>	<u>Regular Benefits Paid</u>
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01/16/21	644.00	.00
01/23/21	1258.00	.00
01/30/21	597.00	159.00
02/06/21	1187.00	.00
02/13/21	118.00	605.00
02/20/21	.00	605.00
02/27/21	1198.00	.00
03/06/21	1213.00	.00
03/13/21	573.00	183.00
03/20/21	617.00	139.00

The claimant reported this wages in good faith and to the best of his ability, but not with the degree accuracy available through the employer’s payroll records. For each of the weeks in the above period for which the claimant received regular benefits, Iowa Workforce Development also paid \$300.00 in Federal Pandemic Unemployment Compensation (FPUC). The claimant’s eligibility for FPUC benefits depended on his eligibility for regular benefits for the same week.

On September 2, 2021, Iowa Workforce Development mailed a Request of Wages to the employer. The Request of Wages solicited weekly work hour totals and gross weekly earned wages for each of the weeks between January 10, 2021 and March 20, 2021. For the weeks between January 24, 2021 and March 20, 2021, the period addressed in the reference 03 overpayment decision, the employer’s payroll records documented and the employer reported hours and wages as follows:

<u>Benefit Week End Date</u>	<u>Hours Worked</u>	<u>Gross Earned Wages (rounded)</u>
01/30/21	24.5	751.00
02/06/21	39.0	1198.00
02/13/21	4.0	119.00
02/20/21	0.0	0.00
02/27/21	43.5	1347.00
03/06/21	41.5	1242.00
03/13/21	19.5	588.00
03/20/21	26.0	774.00

Based on the accurate wage information the employer provided, an Iowa Workforce Development deputy determined the claimant was not eligible for the \$159.00 in regular benefits the claimant received for the week that ended January 30, 2021, because the \$751.00 in earned wages equaled or exceeded his \$605.00 weekly benefit amount plus \$15.00. Likewise, the deputy determined the claimant was not eligible for the \$139.00 in regular benefits he received for the week ending March 20, 2021, because the \$774.00 in earned wages equaled or exceeded the weekly benefit amount plus \$15.00.

On July 29, 2022, an Iowa Workforce Development deputy entered a reference 03 decision that held the claimant was overpaid \$313.00 in regular state benefits for three weeks between January 24, 2021 and March 20, 2021. The overpayment determination pertained to the weeks ending January 30, March 13, and March 20, 2021. The overpayment determination, as it relates to the weeks ending January 30 and March 20, 2021, effectively determined the claimant was not eligible for regular state benefits for those two weeks. In Appeal Number 22A-UI-16286-JT-T, the undersigned administrative law judge affirmed the overpayment determination and has clarified that the overpayment determination rendered the claimant ineligible for regular state benefits for the weeks ending January 30 and March 20, 2021.

REASONING AND CONCLUSIONS OF LAW:

PL116-136, 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.

(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 Federal Pandemic Unemployment Compensation payable to such individual 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 Federal Pandemic 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.

The claimant reported his earned wages in good faith, but ultimately provided a number of weekly wage reports that were incorrect. Three of the weekly wage reports resulted in the claimant receiving unemployment insurance benefits for which the claimant was not eligible. During the weeks that ended January 30, 2021 and March 20, 2021, the claimant's wages equaled or exceeded his weekly benefit amount plus \$15.00, meaning that the claimant was not partially unemployed those weeks and was not eligible for benefits for those weeks. The claimant's ineligibility for regular benefits for those two weeks also rendered him ineligible for the FPUC benefits he received for those weeks. Accordingly, the claimant was overpaid \$300.00 in FPUC benefits for the week ending January 30, 2021 and overpaid \$300.00 in FPUC benefits for the week ending March 20, 2021. The combined overpayment of FPUC benefits for the two weeks in question is \$600.00. The claimant must repay the overpaid FPUC benefits unless the claimant applies for and is approved for waiver of repayment of FPUC benefits. See below.

DECISION:

The July 29, 2022 (reference 04) decision is AFFIRMED. The claimant was overpaid \$300.00 in FPUC benefits for the week ending January 30, 2021 and overpaid \$300.00 in FPUC benefits for the week ending March 20, 2021. The combined overpayment of FPUC benefits for the two weeks in question is \$600.00. The overpayment was caused by the claimant incorrectly reporting earned wages, though the claimant reported his wages in good faith. The claimant must repay the overpaid FPUC benefits unless the claimant applies for and is approved for waiver of repayment of FPUC benefits. See below.



James E. Timberland
Administrative Law Judge

October 7, 2022
Decision Dated and Mailed

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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 by following the instructions on the final page of this decision. Additionally, instructions for requesting a waiver of this FPUC overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a FPUC waiver, you will have to repay the FPUC 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 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.