

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

AUSTIN D BULS
Claimant

APPEAL NO. 21A-UI-11391-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 05/24/20
Claimant: Appellant (1)

Public Law 116-136, § 2104 – Federal Pandemic Unemployment Compensation Overpayment

STATEMENT OF THE CASE:

The claimant, Austin Buls, filed a timely appeal from the April 6, 2021, reference 04, decision that held he was overpaid \$5,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for nine weeks between May 24, 2020 and July 25, 2020, due to an earlier reference 02 decision that disqualified him for benefits. After due notice was issued, a hearing was held on July 12, 2021. Austin Buls participated personally and was represented by attorney Andrew Nelson. Mr. Nelson presented testimony through Austin Buls and Alex Buls. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-11390-JTT. Exhibits A through F were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, NMRO, the reference 02 decision, the administrative law judge decision in Appeal Number 20A-UI-13241-S2-T, and the Employment Appeal Board decision in Hearing Number 21B-UI-13241.

ISSUE:

Whether the claimant was overpaid \$5,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for nine weeks between May 24, 2020 and July 25, 2020, due to an earlier reference 02 decision that disqualified him for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Austin Buls, established an original claim for benefits that was effective May 24, 2020. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$93.00. The claimant received \$1,860.00 in regular benefits for the 20 weeks between May 24, 2020 and October 10, 2020. The claimant also received \$600.00 in weekly Federal Pandemic Unemployment Compensation (FPUC) for each of the nine weeks between May 24, 2020 and July 25, 2021, for a total FPUC payment of \$5,400.00.

On October 16, 2020, an Iowa Workforce Development Benefits Bureau deputy entered a reference 02 decision that disqualified the claimant for benefits, and that relieved the employer account of Cresco Food Technologies, L.L.C. of charge, based on the deputy's conclusion that the claimant voluntarily quit on May 22, 2020 without good cause attributable to the employer.

The reference 02 decision prompted the overpayment decision from which the claimant appeals in the present matter.

The claim appealed the reference 02 decision. On December 29, 2020, an administrative law judge entered a decision in Appeal Number 20A-UI-13241-S2-T. The administrative law judge ruled that the claimant defaulted on his appeal and dismissed the appeal. The administrative law judge left the October 16, 2020, reference 02, disqualification decision in place.

The claimant appealed the administrative law judge's decision to the Employment Appeal Board. On February 22, 2021, the Employment Appeal Board entered a decision in Hearing Number 21B-UI-13241. The Employment Appeal Board affirmed the administrative law judge's decision and denied the claimant's request that the matter be remanded to the Appeals Bureau for a new hearing. The claimant subsequently requested that the Employment Appeal Board rehear his appeal to Employment Appeal Board. The Employment Appeal Board denied the request. The claimant did not file a petition for judicial review to challenge the Employment Appeal Board's decision.

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.

Because the reference 02 decision disqualified the claimant for unemployment insurance in connection with the May 22, 2020 separation from Cresco Food Technologies, L.L.C., and because the administrative appellate decisions left the disqualification decision in place, the \$5,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits that the claimant received for 20 weeks between May 24, 2020 and July 25, 2020 is an overpayment of benefits. The claimant must repay the overpaid FPUC benefits unless the claimant applies for and is approved for waiver of repayment of the FPUC benefits. See below.

DECISION:

The April 6, 2021, reference 04, decision is affirmed. The claimant was overpaid \$5,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for nine weeks between May 24, 2020 and July 25, 2020, due to an earlier reference 02 decision that disqualified him for benefits in connection with his separation from employment with Cresco Food Technologies. The claimant must repay the overpaid FPUC benefits unless the claimant applies for and is approved for waiver of repayment of the FPUC benefits. See below.



James E. Timberland
Administrative Law Judge

July 22, 2021
Decision Dated and Mailed

jet/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>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.