

15 U.S.C. §9021(d)(4) *as amended by Continued Assistance Act*, H.R. 133, 116 Congress, Sec. 201(d). In this case the Claimant was paid PUA benefits. We now consider whether the PUA overpayment can be waived.

In deciding the question of fault, we will consider factors such as whether a material statement or representation was made by the Claimant in connection with the application for benefits, whether the Claimant knew or should have known that a fact was material and failed to disclose it, whether the Claimant should have known the Claimant was not eligible for benefits, and whether the overpayment was otherwise directly caused by the knowing actions of the Claimant. *Cf.* 871 IAC 24.50(7) (setting out factors for similar issue under TEUC from 2002). In deciding equity and good conscience we utilize the federal directives by considering the following:

- It would cause financial hardship to the person for whom it is sought; or
- The recipient of the overpayment can show (regardless of their financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either they have relinquished a valuable right or changed positions for the worse; or
- Recovery would be unconscionable under the circumstances.

[UIPL 20-21](#), p. 6-7 (DOL ETA 5/5/2021).

Applying these factors to the totality of the circumstances in this case including that there is no evidence of material misrepresentation, we find on this individualized basis that the **PUA overpayment** should be waived on the ground that the Claimant's knowing actions were not directly at fault for the overpayment, and recovery would be unconscionable.

If after today the Claimant should receive an overpayment decision concerning the overpayment(s) we have waived then the Claimant should appeal that decision. The Claimant should retain our decision to present to IWD in response to any such decision. The Claimant likewise should present this order to IWD if the Claimant should receive a bill for a waived overpayment.

DECISION:

The decision of the Administrative Law Judge dated February 28, 2022 is **AFFIRMED AS MODIFIED IN THE CLAIMANT'S FAVOR.**

The overpayment of \$203 in PUA benefits is hereby waived, and the Claimant has no obligation to pay back those benefits. This waiver is effective only if the Claimant does not receive additional payments of PUA covering the same weeks. If the Claimant does receive such additional payments covering the same

period of time as this case, then Claimant will not be allowed to retain the double payment. In all other respects, the decision of the Administrative Law Judge is affirmed.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv