MARISSA K BESLER
Claimant

IOWA WORKFORCE
DEVELOPMENT DEPT

APPEAL NO. 21A-UI-00533-DG-T

ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/05/20
Claimant: Appellant (1)

PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated November 6, 2020, reference 04, that concluded claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) as a result of a disqualification decision. A hearing was scheduled and held on February 9, 2021 pursuant to due notice. Claimant did participate.

ISSUE:

The issue is whether claimant is overpaid Federal Pandemic Unemployment Compensation (FPUC)?

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The Federal Pandemic Unemployment Compensation (FPUC) overpayment issue in this case was created by a disqualification decision that has now been affirmed. Claimant is overpaid $1,200.00 for the Two weeks ending April 18, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7)*a, b*, as amended in 2008, provides:
    7. *Recovery of overpayment of benefits.*
    a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.
    b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the

overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

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…
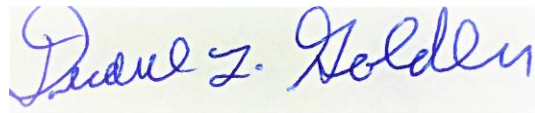
The administrative law judge concludes that claimant is overpaid Federal Pandemic Unemployment Compensation (FPUC) in the amount of $1,200.00 for the Two weeks ending

April 18, 2020, pursuant to Iowa Code section 96.3-7 and PL116-136, Sec. 2104 as the disqualification decision that created the overpayment decision has now been affirmed.

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at https://www.iowaworkforcedevelopment.gov/pua-information. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The decision of the representative dated November 6, 2020, reference 04, is affirmed. Claimant is overpaid Federal Pandemic Unemployment Compensation (FPUC) in the amount of $1,200.00.

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Duane L. Golden
Administrative Law Judge

__February 25, 2021__
Decision Dated and Mailed

dlg/mh