

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PATRICIA L NIX**  
Claimant

**APPEAL 22A-UI-25601-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/15/20**  
**Claimant: Appellant (6R)**

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Iowa Code § 96.3(7) – Overpayment  
Public Law 116-136, §2102 – Pandemic Unemployment Assistance  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

Claimant, Patricia Nix, filed a timely appeal from the November 10, 2021 (reference 01) unemployment insurance decision that held the claimant was overpaid \$3,045.00 in Pandemic Unemployment Assistance (PUA) benefits for the four-week period of June 28, 2020 through July 25, 2020, due to duplicate PUA benefit payments being made to the claimant for that period. A notice of hearing was mailed to the claimant's last-known address of record for a telephone hearing scheduled for 10:00 a.m. on February 4, 2022. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-25602-JTT. The claimant did not comply with the hearing notice instructions to call the toll-free number at the time of the hearing and did not participate in the appeal hearing. Elizabeth Volious, Iowa Workforce Development Investigator II, appeared at the administrative law judge's request. Based upon the claimant/appellant's failure to participate in the hearing and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

**ISSUE:**

Whether the appeal should be dismissed based on the claimant/appellant's failure to appear and participate.

**FINDINGS OF FACT:**

The claimant is the appellant in this matter and in a companion appeal number. The consolidated hearing was originally set for January 19, 2022. The claimant appeared at time. The administrative law judge adjourned the hearing and had the hearing rescheduled for good cause based on the claimant's assertion that she did not receive the benefits in question, her assertion that she had been the victim of identity theft, and her assertion that she had been in contact with the Iowa Workforce Development Integrity Bureau regarding the matter. In addition, the claimant submitted four exhibits during January 19, 2022, and expressed an intention to submit several more exhibits. The administrative law judge adjourned and rescheduled the hearing so that the Integrity Bureau could receive notice and participate in the hearing, so that the claimant

would have additional opportunity to submit exhibits, and so that the administrative law judge would have an opportunity to review the proposed exhibits.

The claimant did not appear for the rescheduled hearing. The claimant was properly notified of the scheduled hearing for this appeal. The claimant/appellant failed to call the toll-free number listed on the hearing notice at the time of the hearing. The appellant did not participate or request a postponement of the hearing as required by the hearing notice.

The hearing notice instruction advised parties of the date and time of hearing. It also stated:

**IMPORTANT NOTICE!**

**YOU MUST CALL** the toll-free number: **866-783-7021** at the time of the hearing. When instructed, enter the PIN Number ... followed by the pound key [#] and wait for the administrative law judge to begin the hearing.

The administrative law judge **WILL NOT** call you for the hearing, you **MUST** call into the number provided above to participate. **Failure to participate in the hearing may result in the dismissal of your appeal.**

The back page of the hearing notice provides further instruction and warning:

**Failure to Participate or Register for Appeal Hearing**

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau will not call you to participate in the hearing. Instructions for participating are on the other side of this page. 871 IAC 26.14(7)

An insert was sent along with the hearing notice stating:

**ATTENTION!**

**Instructions for participating in a hearing have changed.**

Please review the enclosed hearing notice carefully and follow the instructions on how to join the call on the scheduled day and time of the hearing.

As a courtesy to the appellant the record was left open until 10:20 a.m. to give the appellant a reasonable opportunity to participate.

The November 10, 2021 (reference 01) unemployment insurance decision held the claimant was overpaid \$3,045.00 in Pandemic Unemployment Assistance (PUA) benefits for the four-week period of June 28, 2020 through July 25, 2020, due to duplicate PUA benefit payments being made to the claimant for that period.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

Iowa Admin. Code r. 871-26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing in writing under subrule 26.8(3) and shows good cause for reopening the hearing.

In this case, the claimant/appellant did not call the toll-free number listed on the hearing notice at the time of the hearing. The appellant is in default. The appeal should be dismissed.

If the appellant disagrees with this decision, the appellant may appeal the decision to the Employment Appeal Board pursuant to the instructions on the first page of this decision.

**DECISION:**

The claimant defaulted on the appeal. The appeal is dismissed. The November 10, 2021 (reference 01) unemployment insurance decision that held the claimant was overpaid \$3,045.00 in Pandemic Unemployment Assistance (PUA) benefits for the four-week period of June 28, 2020 through July 25, 2020, due to duplicate PUA benefit payments being made to the claimant for that period, remains in effect.

This matter is **remanded** to the Integrity Bureau for additional action the Bureau deems appropriate, if any.



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James E. Timberland  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

February 23, 2022  
Decision Dated and Mailed

jet/mh

*Note to Claimant.* This decision determines you have been overpaid PUA 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.