

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

**KENNEDY CRAUN
Claimant**

APPEAL 23A-UI-01864-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/22/20
Claimant: Appellant (3)**

PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from the February 8, 2023 (reference 03) unemployment insurance decision that found claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits and imposed an administrative penalty due to fraud. The parties were properly notified of the hearing. A telephone hearing was held on March 10, 2023. Claimant participated. Iowa Workforce Development (IWD) participated through Mike Newton, Investigator.

Department's Exhibits 1.1 through 1.6 were admitted. The administrative law judge took official notice of the administrative record. The record remained open for claimant to submit paystubs and tax forms from J and J Restaurants as proposed exhibits. Claimant did not submit paystubs. Claimant submitted her 2020 and 2021 W-2s which are admitted as Claimant's Exhibit A.

ISSUES:

Whether claimant was overpaid FPUC benefits.
Whether a penalty was properly imposed.

FINDINGS OF FACT:

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

Claimant filed an initial claim for benefits effective March 22, 2020 and ongoing weekly claims from March 22, 2020 until April 3, 2021.

Claimant received FPUC benefits of \$7,200.00 for the 12-week period between March 29, 2020 and June 20, 2020 based upon her eligibility for unemployment insurance (UI) benefits.

On February 8, 2023, IWD issued a decision (reference 01) that found claimant was overpaid UI benefits due to excessive wages and assessed an administrative penalty due to fraud. On appeal, an administrative law judge determined claimant was not eligible for UI benefits between March 29, 2020 and June 20, 2020 (see appeal number 23A-UI-01862-AW-T). The judge also determined claimant was overpaid UI benefits, which must be repaid, and that

claimant committed a fraudulent practice by willfully and knowingly failing to disclose material facts regarding her wages earned to obtain unemployment benefits to which she was not entitled. Those findings are incorporated herein by reference. The administrative law judge's decision remains in effect.

Claimant received FPUC benefits of \$3,000.00 for the 10-week period between January 10, 2021 and March 13, 2021 based upon her eligibility for Pandemic Emergency Unemployment Compensation (PEUC) benefits.

On February 8, 2023, IWD issued a decision (reference 02) that found claimant was overpaid PEUC benefits due to excessive wages and assessed an administrative penalty due to fraud. On appeal, an administrative judge determined claimant was not eligible for PEUC benefits between January 10, 2021 and March 13, 2021 (see appeal number 23A-UI-01863-AW-T). The judge also determined that claimant was overpaid PEUC benefits, which must be repaid, and that claimant committed a fraudulent practice by willfully and knowingly failing to disclose material facts regarding her wages earned to obtain PEUC benefits to which she was not entitled. Those findings are incorporated herein by reference. The administrative law judge's decision remains in effect.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

PL 116-136, 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.

The decisions that found claimant ineligible for UI and PEUC benefits remain in effect. Because claimant was not eligible for UI and PEUC, she was also not eligible for FPUC benefits. Therefore, claimant received FPUC benefits to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid FPUC benefits of \$10,200.00 for the 12-week period between March 29, 2020 and June 20, 2020 and the 10-week period between January 10, 2021 and March 13, 2021. Those benefits must be recovered in accordance with Iowa law.

The next issue to be determined is whether an administrative penalty due to fraud was properly imposed. For the reasons that follow, the administrative law judge concludes:

PL 116-136 Sec 2104(f) provides in pertinent part (emphasis added):

EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(f) FRAUD AND OVERPAYMENTS. – (1) IN GENERAL. –

If an individual **knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled**, such individual –

(A) shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

The Department of Labor has provided the following guidance regarding penalties for fraud:

Within the context of the CARES Act, states must apply a minimum 15 percent monetary penalty to an individual's overpayment when the state determines that such an overpayment was made to an individual due to fraud. **Fraud includes instances where an individual knowingly made, or caused to be made, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact.** This fraud penalty is applicable to . . . FPUC

UIPL No. 20-21, pages 4-5 (emphasis added).

The Department of Labor further explains: "eligibility fraud occurs when benefits or services are acquired as a result of false information being provided with the intent to receive benefits for which an individual would not otherwise be eligible." UIPL No. 20-21, Change 1, page 7.

Claimant had a duty to truthfully and accurately answer questions when filing her weekly claims. Claimant willfully and knowingly failed to disclose material facts to obtain unemployment benefits to which she was not entitled, which constitutes a fraudulent practice. The 15% administrative penalty was properly imposed.

DECISION:

The February 8, 2023 (reference 03) unemployment insurance decision is MODIFIED IN FAVOR OF RESPONDENT. Claimant was overpaid FPUC benefits in the amount of \$10,200.00, which must be repaid. A 15% administrative penalty for fraud shall be assessed.



Adrienne C. Williamson
Administrative Law Judge

March 27, 2023
Decision Dated and Mailed

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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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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 se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.