

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

ANA ESPINOZA
Claimant

APPEAL NO. 22A-UI-18213-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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

P. L. 116-136, §2104(F)(2) – FPUC Overpayment Waiver
P. L. 116-136, §2107(E)(2) – PEUC Overpayment Waiver
P. L. 116-260, §262 – LWAP Overpayment Waiver

STATEMENT OF THE CASE:

On October 10, 2022, Ana Espinoza (claimant) filed a timely appeal from the October 3, 2022 (reference 04) letter/decision that denied the claimant's request to waive repayment of overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits, overpaid Pandemic Emergency Unemployment Compensation (PEUC) benefits, and Lost Wage Assistance Program (LWAP) benefits. After due notice was issued, a hearing was held on November 9, 2022. Claimant participated in the hearing. Exhibit A, the online appeal, was received into evidence. The administrative law judge took official notice of relevant Iowa Workforce Development records, including but not limited to the reference 01, 02 and 03 decisions, the October 6, 2020 decision regarding PEUC benefits, the February 17, 2021 decision regarding FPUC benefits, NMRO, DBIN, KPYX, WAGEA, WAGEB, the April 22, 2022 online waiver application and the Federal Overpayment Waiver Criteria Guidelines document reflected the Benefits Bureau reason for waiver denial.

ISSUES:

Whether repayment of the \$11,100.00 FPUC overpayment should be waived.
Whether repayment of the \$8,635.00 PEUC overpayment should be waived.
Whether repayment of the \$1,800.00 LWAP overpayment should be waived.

FINDINGS OF FACT:

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

The claimant established an original claim for benefits that was effective April 5, 2020. Iowa Workforce Development set the weekly benefit amount at \$481.00. The claimant made weekly claims for each of the 50 consecutive weeks between April 5, 2022 and March 20, 2021.

The claimant established her claim in response to a COVID-19 related short-term layoff from her part-time, supplemental employer, Target Corporation. The initial short-term layoff lasted three weeks. After returning to the part-time, supplemental employment, the claimant received

reduced work hours and experienced intermittent short-term layoffs from the part-time supplemental employment. At the time the claimant established her unemployment insurance claim, she reported an August 20, 2019 start date for the Target employment. IWD records reflect a pre-pandemic \$179.00 average weekly wage from the Target part-time, supplemental employment from the start of the employment through the end of 2019. IWD records reflect much lower pre-pandemic weekly wages from the part-time, supplemental Target employment during the first quarter of 2020. IWD records do not support the claimant's assertion of a \$300.00 pre-pandemic average weekly wage from the part-time, supplemental employment.

The claimant has at all relevant times been employed by Drake University as a full-time Head Start administrative assistant. The claimant was in the full-time employment and was receiving full-time hours and pay at the time she established her original claim for unemployment insurance benefits. The claimant continued in the Drake full-time employment with full-time hours and pay throughout the 50-week period the claimant continued her unemployment insurance claim. The claimant continues in the Drake full-time employment at present. IWD records reflect the claimant averaged \$704.00 in weekly wages from the Drake employment in 2020. Those Drake wages well exceeded the claimant's \$481.00 weekly benefit amount plus \$15.00. Drake paid the claimant \$36,631.64 in wages in 2020. Drake paid the claimant \$37,544.87 in wages in 2021.

Early in the COVID-19 pandemic, Iowa Workforce Development published COVID-19 related information on its website. That information included a statement that claimants who continued to work full-time in a full-time employment, but who were laid off from a second, part-time supplemental employment were not deemed unemployed and were not eligible for unemployment insurance benefits. IWD published this information in the form of Frequently Asked Questions (FAQS) and in the form of a recorded video presentation. The claimant asserts she did not review this information. To complete her initial application for unemployment insurance benefits, the claimant had to agree to review The Unemployment Insurance Claimant Handbook, available online at the IWD website. The Handbook provided instructions for accurately reporting weekly wages and included the following:

You must report all gross earnings and gross wages on the weekly claim. Wages are reportable when earned, not when paid. Gross earnings or gross wages are your earnings before taxes or other payroll deductions are made. For additional information, please refer to the page on reportable income.

Unemployment Insurance Claimant Handbook, under What to Report on the Weekly Claim. The claimant advises she reviewed the handbook.

During each of the 50 weeks for which the claimant made a weekly claim for unemployment insurance benefits, the weekly claim reporting system asked the claimant whether she had worked during the preceding week for which she was making the weekly claim. During 16 of those weeks, the claimant reported she was not working, though the claimant continued to work full-time for Drake University Head Start. During each of the 50 benefit weeks, the weekly claim reporting system required the claimant to certify the accuracy of the information she provided in the weekly claim. During each of those 50 weeks, the claimant omitted her wages from the full-time Drake employment when she made her weekly claim. Because the Drake wages consistently exceeded the claimant's \$481.00 weekly benefit amount plus \$15.00, the claimant was not unemployed and not eligible for unemployment insurance benefits. See the March 4, 2021 (reference 01) decision.

In addition to failing to report her wages from the Drake full-time employment, the claimant significantly underreported her Target wages during at least three of the four calendar quarters involved in her claim. During the second quarter of 2020, April 1 to June 30, 2020, the claimant reported \$465.00 in wages earned from the Target employment, but was actually paid \$679.85. During the third quarter of 2020, the claimant reported \$863.00 earned from the Target employment, but was actually paid \$1,271.68. During the fourth quarter of 2020, the claimant reported \$829.00 in wages earned from the Target employment, but was actually paid \$1,357.85.

The claimant asserts that she called Iowa Workforce Development several times in 2020 and was consistently told that her claim only pertained to her part-time employment and that she need only report wages earned from her part-time employment. The claimant did not document the calls or who she allegedly spoke with. However, the claimant's assertion is not credible. As previously noted, such guidance would have been entirely inconsistent with the law and with the information IWD published via its website. In addition, such guidance would have been inconsistent with the script provided to and used by those who answered the phone for IWD during the pandemic. What makes the claimant's assertion even less credible is her assertion that the purported guidance was not a one-off, but something the claimant heard repeatedly from IWD representatives. The claimant's 2020 claim for benefits was not the claimant's first unemployment insurance claim. IWD records reflect active claims in 2010, 2016 and 2017. The weekly wage reporting requirements have not changed since 2010.

Due to the claimant's failure to report wages from the full-time Drake employment, the claimant was overpaid \$12,035.33 in regular state unemployment insurance benefits for 26 weeks between April 5, 2020 and October 3, 2020. The claimant must repay the overpaid benefits. See the March 30, 2022 (reference 02) decision.

Due to the claimant's failure to report wages from the full-time Drake employment, the claimant was overpaid \$8,635.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits for 19 weeks between October 4, 2020 and February 13, 2020. The claimant must repay the overpaid PEUC benefits unless repayment is waived. See the March 30, 2022 (reference 03) decision.

Due to the claimant's failure to report wages from the full-time Drake employment, the claimant was overpaid \$11,100.00 in Federal Pandemic Unemployment Compensation (FPUC) for 16 weeks between April 5, 2020 and July 25, 2020 and seven weeks between December 27, 2020 and February 13, 2021. The claimant must repay the overpaid FPUC benefits unless repayment is waived. See the March 30, 2022 (reference 03) decision.

Due to the claimant's failure to report wages from the full-time Drake employment, the claimant was overpaid \$1,800.00 in Lost Wage Assistance Program (LWAP) benefits for six weeks between July 26, 2022 and September 5, 2022. The claimant must repay the overpaid LWAP benefits unless repayment is waived. See the March 30, 2022 (reference 03) decision.

Due to the claimant's failure to report wages from the full-time Drake employment, the claimant collected, in total, \$33,570.33 in unemployment insurance benefits for which she was never eligible.

Neither the reference 02 nor the reference 03 overpayment includes a fraud determination.

The claimant resides in a house in West Des Moines with her husband, her 19-year-old son from a prior marriage, and her elderly mother. The claimant and her husband own the home,

but have a \$2,400.00 monthly mortgage payment. The claimant and her husband keep their finances separate and each pays an equal share of most monthly bills. The claimant's share of the mortgage is \$1,200.00. The claimant's share of the \$280.00 gas and electric bill is \$140.00. The claimant's share of the \$180.00 water bill is \$90.00. The claimant's share of the \$85.00 Internet bill is \$42.50. The claimant's share of the \$160.00 cable television bill is \$80.00. The claimant is responsible for the car payments for her car and for the car she purchased for her 19-year-old son. The monthly payment for the claimant's car is \$616.00. The monthly payment for the son's car is \$190.00. The claimant and her husband have auto insurance policy that covers their two vehicles. The claimant's husband pays the auto insurance bill in exchange for the claimant paying the \$320.00 family cell phone plan. The claimant pays \$140.00 a month for her 19-year-old son's auto insurance. The claimant's share of the \$600.00 monthly grocery bill is \$300.00. The claimant and her husband have an \$18,000.00 debt consolidation loan with a \$500.00 monthly payment. The claimant is responsible for \$250.00 of that payment. The claimant has a \$600.00 Kohl's credit card balance with a \$30.00 minimum monthly payment and a \$500.00 TJ Maxx credit card balance with a \$30.00 minimum monthly payment. The claimant has an additional credit card balance with a \$40.00 minimum monthly payment. The claimant has a \$260.00 outstanding Iowa income tax liability and \$1,000.00 outstanding federal tax liability on which she pays \$25.00 and \$50.00 a month respectively. The claimant's elderly mother contributes \$600.00 toward the household expenses, but buys her own food. The claimant's total monthly expenses, not including gas for her vehicle, totals \$2,861.50. This amount does not factor in the claimant's mother's \$600.00 monthly contribution toward household expenses.

The claimant's present income consists of wages from the full-time Drake employment and the part-time Target employment. The claimant's Drake hourly wage is \$16.51. That would mean the claimant's weekly gross wages from the Drake employment total \$660.00. Drake has reported paying the claimant \$28,626.00 in gross wages during the first three quarters of 2022, which provides a \$3,180.67 gross monthly average. Target has reported paying the claimant \$4,341.00 during the first three quarters of 2022, which provides a \$482.00 monthly average. The total gross monthly average is \$3,663.00.

The claimant's account of how she spent the \$33,570.33 unemployment insurance benefits windfall is significantly lacking. The claimant advises she used the unemployment insurance windfall to pay bills, for household items, to adopt three cats at a cost of \$385.00, and for a down-payment on her adult son's car. The claimant denies that she put any of the money away for a rainy day. The claimant had not provided any financial records or tax records for the administrative law judge's consideration.

On April 22, 2022, the claimant submitted her waiver application. Material elements of the written application do not match the claimant's sworn testimony. In the written application, the claimant stated she was married, but not currently living with a spouse, domestic partner, or other individual who contributes to expenses. At the appeal hearing, the claimant testified she lives with her husband and that they split household expenses. In the written application, the claimant indicated spouse/domestic partner gross wages of zero. In the written application, the claimant indicated she had zero funds in savings or checking and no other financial assets, though the quarterly wage reports from the claimant's employer's indicate a \$3,663.00 gross monthly income. In the written application, the claimant indicated her home was assessed at zero and that her monthly mortgage expense was \$500.00. But at the hearing, the claimant testified to a \$2,400.00 mortgage payment. In the written application, the claimant testified to \$200.00 monthly food expense. The monthly food expense became \$600.00 at the appeal hearing. In the written application, the claimant indicated a \$200.00 monthly utility expense, a \$50.00 monthly clothing expense, zero real estate tax expense, and \$63,554.00 credit balance.

The claimant attached no financial records to the waiver application. In the written application, the claimant indicated she has two dependent children. At the appeal hearing, the claimant testified she has a 19-year-old son who resides with her and another adult child who lives independent from the claimant. In the written application, the claimant indicated a \$2,690.00 current gross monthly income/salary, but quarterly wage reports provided by the claimant's employer's indicate \$3,663.00 in gross monthly wages. In the written application, the claimant indicated she spent the unemployment insurance benefits as follows:

Purchase food for me and my family, sometimes food already made from restaurants, pay some bills since I wasn't bringing home the extra money from my part-time job at Target, My whole family got Covid and during that time I couldn't work either. It helped me tremendously with my phone bill, car payment, I also bought some cats for therapy for my son as he also developed anxiety during covid and the neurologist recommended a pet, bought 3 cats, food for them. Used the money for gas, clothing, plants, help my youngest son to purchase a car so he could drive himself to college. I am a good person and when I applied for the unemployment I said many times it was for my Part Time job at Target. I didn't misused the money, it all went to our household for good things, never for anything of luxury or unnecessary things.

At the appeal hearing, the claimant made no mention of anyone in the household being sick from COVID-19 or using unemployment insurance benefits for that purpose.

REASONING AND CONCLUSIONS OF LAW:

Regarding the FPUC overpayment, PL116-136, Sec. 2104 provides:

(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.

Regarding the PEUC overpayment, PL 116-136, Section 2107(e) provides:

(e) Fraud and overpayments

...

(2) Repayment

In the case of individuals who have received amounts of pandemic emergency unemployment compensation under this section to which they were not entitled, the State shall require such individuals to repay the amounts of such pandemic emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such pandemic emergency 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 pandemic emergency unemployment compensation payable to such individual under this section 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 pandemic emergency 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.

Regarding, LWAP overpayment, Public Law 116-260, section 262 provides:

SEC. 262. Lost Wages Assistance Recoupment Fairness.

(a) Definitions.—In this section—

(1) the term “covered assistance” means assistance provided for supplemental lost wages payments under subsections (e)(2) and (f) of section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), as authorized under the emergency declaration issued by the President on March 13, 2020, pursuant to section 501(b) of such Act (42 U.S.C. 5191(b)) and under any subsequent major disaster declaration under section 401 of such Act (42 U.S.C. 5170) that supersedes such emergency declaration; and

(2) the term “State” has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(b) Waiver Authority For State Liability.—In the case of any individual who has received amounts of covered assistance to which the individual is not entitled, the State shall require the individual to repay the amounts of such assistance to the State agency, except that the State agency may waive such repayment if the State agency determines that—

(1) the payment of such covered assistance was without fault on the part of the individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) Waiver Authority For Federal Liability.—Any waiver of debt issued by a State under subsection (b) shall also waive the debt owed to the United States. H.R. 133, 116 Congress, Sec. 262.

In Unemployment Insurance Program Letter No. 20-21, Change 1, the U.S. Department of Labor published guidance for states to follow to determine “circumstances under which a state may waive recovery of overpayments under the CARES Act Unemployment Compensation (UC) programs.” UIPL 20-21, Change 1 (DOL ETA 2/7/2022). The Program Letter reaffirmed and elaborated on the eligibility requirements for waiving recovery of an overpayment under the CARES Act UC programs. UIPL 20-21, Change 1, pp. 9 et seq. The Program Letter reaffirmed that states could only waive repayment if (1) the payment was made without fault of the individual who received the payment and (2) if repayment was contrary to equity and good conscience. UIPL 20-21, Change 1, p. 9. The Program Letter defined “without fault” as follows.

Without fault means the state has determined the individual had no fault with respect to a given week of unemployment which is determined to be overpaid. Generally, an individual is considered to be without fault when the individual provided all information correctly as requested by the state, but the state failed to take appropriate action with that information or took delayed action when determining eligibility.

When looking at eligibility to waive recovery on an individual, case-by-case basis, the state may also find that an individual is without fault if the individual provided incorrect information due to conflicting, changing, or confusing information or instructions from the state; the individual was unable to reach the state despite their best efforts to inquire or clarify what information the individual needed to provide; or other similar difficulties (e.g., education, literacy, and/or language barriers) in understanding what information the state needed from the individual to properly determine eligibility for the CARES Act UC programs. In determining if the individual is without fault under these circumstances, some examples of what states might review include verbal or written statements from the individual explaining the confusion they experienced or screenshots of the application questions at the time the individual submitted their original information. Finding an individual to be without fault under these circumstances is fact-specific and must be done on a case-by-case basis.

While many non-fraud overpayments scenarios may be categorized as without fault, states may not categorically equate non-fraud overpayments as being made without fault on the part of an individual. Not all non-fraud overpayments are without fault on the part of the individual.

UIPL 20-21, Change 1, pp. 9-10 (emphasis added).

The Program Letter also provided instructions for determining whether repayment would be contrary to equity and good conscience, as follows:

Such repayment would be contrary to equity and good conscience. To waive recovery of the resulting overpayment, in addition to the payment having been made without fault of the individual, the state must also determine that repayment would be contrary to equity and good conscience. The state may defer to state law in defining what it means for repayment to be contrary to equity and good conscience. Alternatively, where state law does not provide a definition of equity and good conscience, or where the state chooses to defer to federal authority for waiving recovery of an overpayment under the CARES

Act UC programs, the state may use the standard provided in Section 4.d.i. of UIPL No. 20-21. *This standard provides that recovery would be contrary to equity and good conscience when at least one of three circumstances exists: (1) recovery would cause financial hardship to the person from whom it is sought; (2) the recipient of the overpayment can show (regardless of their financial situation) 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 (3) recovery would be unconscionable under the circumstances.*

UIPL 20-21, Change 1, p. 10.

The program letter went on to provide examples of circumstances wherein requiring repayment would be contrary to equity and good conscience under each of the three delineated circumstances. UIPL 20-21, Change 1, p. 11. Under the financial hardship scenario, the Program Letter calls for waiver wherein “A review of the individual’s income and debts (including copies of pay records and bills) reflects the hardship caused by having to repay an overpayment because the individual needs much of their current income and liquid assets (including the CARES Act benefits received) to meet ordinary and necessary living expenses and liabilities.” *Id.* Under the detrimental reliance scenario, potential factors to be considered included whether the individual incurred a new financial obligation in detrimental reliance on the benefit payments such that the claimant was not in a worse financial position than if they had not received the benefits. *Id.* Under the unconscionable recovery scenario, one test was whether it would be extremely unfair to require repayment when the individual was not at fault in receiving the overpayment and whether requiring repayment now would undermine the individual’s financial stability and the purposes for which the benefits were paid.” *Id.* Attachment I of the Program Letter provided seven additional examples where recovery would be unconscionable under the circumstances, but none of those examples applied to this claimant. UIPL 20-21, Change 1, Attachment I.

In determining whether repayment of the overpaid FPUC, PEUC and LWAP benefits should be waived, the administrative law judge finds useful the Iowa Employment Appeal Board’s waiver eligibility analysis set forth at Hearing Numbers 22B-UI-12378 (waiving FPUC repayment) and 22B-UI-22213 (denying LWAP repayment waiver).

In deciding the question of fault, the administrative law judge has considered factors such as (1) whether the claimant made a material untrue statement or representation in connection with the application for benefits, (2) whether the claimant knew or should have known that a fact was material and failed to disclose it, (3) whether the Claimant should have known the claimant was not eligible for benefits, and (4) 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). See 22B-UI-22213 at page 4.

In deciding equity and good conscience, the administrative law judge will 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, the administrative law judge concludes the FPUC, PEUC and LWAP overpayments should not be waived.

Regarding the fault consideration, IWD reasonably expected the claimant to know she was supposed to disclose all her wages when making her weekly claims. IWD provided appropriate information and instructions in the Unemployment Insurance Claimant Handbook, in the COVID-19 related information published on the IWD website, and in the weekly claim reporting system. The claimant not only omitted the full-time wages, but also significantly underreported her wages from the part-time, supplemental employment. On the other hand, the Benefits Bureau overpayment decisions in question do not include a finding of misrepresentation or fraud. One thing that stands out about the claimant's waiver request is the huge disproportion between the relatively small loss of wages in connection with the part-time, supplemental employment versus the substantial wages the claimant continued to enjoy through the full-time employment *and* the massively disproportionate unemployment insurance benefit windfall. During 15 of the 50 weeks involved in the claim, the wages the claimant lost from the part-time rose to 20 percent of her pre-pandemic combined average weekly wage. During the other weeks involved in the claim, the loss was a much lower percentage. When the claimant applied for benefits, IWD sent her a monetary records that set forth her base period wages and the \$481.00 weekly benefit amount that was based on those base period wages. The \$481.00 weekly benefit amount well exceeded the claimant's pre-pandemic average weekly wages from the Target employment. To think that one could be working full-time, continue to enjoy full-time wages, and yet continue over the course of 45 weeks to week-after-week collect unemployment benefits vastly exceeding the lost wages is a level of carelessness not seen in other cases where waiver of repayment has been granted. The claimant's actions rose to the level of fault that is inconsistent with a waiver. This alone is sufficient to deny the waiver.

The Employment Appeal Board's analysis of the equity and good conscious issue in Hearing Number 22B-UI-22213 is also useful in this case. See Hearing Number 22B-UI-22213 at page 5. The first federal prong on equity and good conscious is "financial hardship." The Claimant collected a lot of money, and then spent it. This is not the standard for hardship, since almost everyone in these cases spends the money when they get it. The claimant has elected not to provide *any* financial records for the administrative law judge's consideration. The claimant had provided inconsistent and, therefore, unreliable information regarding her resources and expenses. The weight of the evidence indicates the claimant has greater resources at her disposal than she has been willing to disclose in connection with the waiver application or the waiver appeal hearing. The claimant has an inescapable \$12,035.33 overpayment of state benefits. The claimant, through her spending habits, has yoked herself to multiple financial obligations unrelated to the unemployment insurance overpayment matter. The claimant elects to shoulder her adult son's car payment and car insurance payment, while in essence asserting she lacks the budget to do so. The financial hardship in this instance is entirely self-inflicted. The second prong on equity and good conscious is relinquishment of a valuable right caused by the payment of benefits. The weight of the evidence does not indicate a good faith detrimental reliance, but rather exploitation and squandering of an undeserved massive windfall. Under the particular circumstances of this case, recovery of the federal overpayment amounts is not unconscionable.

DECISION:

The October 3, 2022 (reference 04) letter/decision is AFFIRMED. The claimant's request for waiver of repayment of FPUC, PEUC and LWAP benefits is DENIED.

A rectangular box containing a handwritten signature in black ink that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

November 18, 2022
Decision Dated and Mailed

jet/scn

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 adquiera 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 d