

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELIZABETH M HARVEY
Claimant

APPEAL 21A-UI-17617-AR-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/12/20
Claimant: Appellant (2)

PL 116-136, Sec. 2104(f) – Federal Pandemic Unemployment Compensation Waiver

STATEMENT OF THE CASE:

Claimant filed an appeal from the July 12, 2021, decision that denied claimant's application to waive a Federal Pandemic Unemployment Compensation (FPUC) overpayment. Claimant was properly notified of the hearing. A telephone hearing was held on September 24, 2021, at 11:05 a.m. Pursuant to notice, the hearing was consolidated with the hearing for appeal number 21A-UI-16986-AR-T. Claimant participated personally. Official notice was taken of the administrative record.

ISSUE:

Whether claimant's FPUC overpayment should be waived.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was initially allowed benefits in an August 26, 2020, (reference 02), Iowa Workforce Development representative decision that found that she was on a short-term layoff during which she was able to and available for work. Her then-employer appealed the decision, and the decision was overturned on appeal in an October 22, 2020, administrative law judge decision, that also imposed overpayments of regular unemployment insurance benefits, as well as FPUC benefits. The administrative law judge's decision was not appealed.

Claimant had been found to be overpaid FPUC benefits in the amount of \$6,000.00 due to the disqualification imposed on appeal. She applied for a waiver of the overpayment. Her application was denied in a decision issued July 12, 2021.

Claimant resides in a household composed of two adults and two children. Claimant and her husband's combined monthly net income is approximately \$2,800.00. She notes that her bills are demanding, and she has little left over at the end of the month. She also notes the family has no savings to use. The FPUC benefit that she received allowed the family to continue to pay their mortgage and other bills during the period when neither she nor her husband could work due to COVID-19. Claimant felt strongly that repayment of the \$6,000.00 FPUC overpayment, combined with the overpayment amount of regular unemployment, would be a

significant financial hardship for the family. Claimant testified clearly that she did not misrepresent information to Iowa Workforce Development when she applied for benefits initially. She further stated that she provided all of the information for which she was asked, and did not intentionally omit or otherwise misrepresent information on her initial application for benefits in 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's FPUC overpayment should be waived.

SEC. 2104. 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.

(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.

In this case, claimant meets the above-noted criteria for waiver of the FPUC overpayment. Claimant credibly testified that she provided all information for which the Department asked. She further testified that, despite not filing an appeal of the administrative law judge's October 2020 decision, she continued to believe she should have been eligible to receive benefits because her place of business was closed. Furthermore, the overpayment amount constitutes more than two months of claimant and her spouse's combined monthly income. While repayment of the whole amount would not be required in one installment, it is clear that repayment would constitute a significant financial hardship for the family. Accordingly, repayment is contrary to equity and good conscience. Claimant has demonstrated to the satisfaction of the administrative law judge that repayment of the FPUC overpayment should be waived.

DECISION:

The July 12, 2021, decision is reversed. Claimant's FPUC overpayment is waived.



Alexis D. Rowe
Administrative Law Judge

September 29, 2021
Decision Dated and Mailed

ar/kmj