

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

**TIMOTHY B BROWN**  
Claimant

**APPEAL 22A-UI-17321-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/15/20**  
**Claimant: Appellant (4)**

PL 116-136, Sec. 2107 – Federal Pandemic Emergency Unemployment Compensation  
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the September 9, 2022 (reference 02) unemployment insurance decision that found claimant was overpaid Pandemic Emergency Unemployment Compensation (PEUC) benefits in the amount of \$273.00 between August 2, 2020 and October 3, 2020 and Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$1,200.00 for the two-week period between July 12, 2020 and July 25, 2020 because he incorrectly reported wages earned. The parties were properly notified of the hearing. A telephone hearing was held on October 18, 2022. Claimant participated. Iowa Workforce Development (IWD) did not participate. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant is overpaid PEUC benefits.  
Whether claimant is overpaid FPUC benefits.

**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 15, 2020. Claimant's weekly benefit amount was \$285.00.

Claimant filed weekly claims for the nine-week period between August 2, 2020 and October 3, 2020. The following chart reflects the weeks that claimant filed ongoing weekly claims, the wages that claimant submitted on his weekly claims, the wages that employer reported claimant earned each week and the amount of PEUC benefits paid to claimant:

Benefit Week Ending	Wages Submitted by Claimant	Wages Reported by Employer	PEUC Benefits Paid To Claimant
8/8/2020	\$240.00	\$387.00	\$116.00
8/15/2020	\$240.00	\$75.00	\$116.00
8/22/2020	\$200.00	\$19.00	\$156.00

8/29/2020	\$200.00	\$0.00	\$156.00
9/5/2020	\$200.00	\$63.00	\$156.00
9/12/2020	\$200.00	\$142.00	\$156.00
9/19/2020	\$200.00	\$282.00	\$156.00
9/26/2020	\$200.00	\$266.00	\$156.00
10/3/2020	\$200.00	\$209.00	\$156.00

Claimant estimated his hours worked and wages earned each week instead of tallying the number of hours worked and multiplying it by his hourly wage. Employer reported the hours claimant worked and gross wages claimant earned each week according to its records.

On September 12, 2022, IWD issued a decision (reference 01) that found claimant was overpaid unemployment insurance (UI) benefits between July 12, 2020 and July 25, 2020 because he incorrectly reported his wages earned with Dowling College. Claimant appealed the decision. On appeal, the administrative law judge affirmed the UI overpayment decision finding that claimant was not eligible for benefits during the two-week period between July 12, 2020 and July 25, 2020 due to excessive wages. The administrative law judge's decision remains in effect. Claimant received FPUC benefits in the amount of \$1,200.00 for the two week period between July 12, 2020 and July 25, 2020.

#### **REASONING AND CONCLUSIONS OF LAW:**

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

PL 116-136 Sec 2107 provides in pertinent part:

##### **PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.**

##### **(a) FEDERAL-STATE AGREEMENTS. –**

...

(2) PROVISIONS OF AGREEMENT. —Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(D) are able to work, available to work, and actively seeking work.

...

(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.

Iowa Code section 96.3(7) states:

*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.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise

eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Code section 96.3(3) provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.1A, subsection 37, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

For the week ending August 8, 2020, claimant worked and earned more than \$300.00 (his weekly benefit amount of \$285.00 plus \$15.00). Therefore, claimant was not totally or partially unemployed and was not entitled to benefits.

For the benefit weeks ending August 22, 2020 and September 5, 2020, claimant earned less than 25% of his weekly benefit amount. Therefore, claimant was entitled to a full benefit payment.

For the week ending August 29, 2020, claimant earned no wages and, thus, was totally unemployed. Accordingly, claimant was entitled to a full benefit payment.

For the remaining benefit weeks, claimant worked and earned more than 25% of his weekly benefit amount but less than \$300.00. Therefore, claimant was partially unemployed and was entitled to partial benefit payments according to the following formula:

$$\begin{aligned} \$ (\text{wages}) - \$ (25\% \text{ of WBA}) &= \$ (\text{wage deduction}) \\ \$ (\text{WBA}) - \$ (\text{wage deduction}) &= \$ (\text{partial weekly benefit amount}) \end{aligned}$$

The following chart reflects the benefits claimant received, the benefits claimant was entitled to and the resulting underpayment or overpayment:

Benefit Week Ending	Benefits Paid to Claimant	Benefits Claimant was Entitled to	Under Payment	Over Payment
8/8/2020	\$116.00	\$0.00		\$116.00
8/15/2020	\$116.00	\$281.00	\$165.00	
8/22/2020	\$156.00	\$285.00	\$129.00	
8/29/2020	\$156.00	\$285.00	\$129.00	
9/5/2020	\$156.00	\$285.00	\$129.00	
9/12/2020	\$156.00	\$214.00	\$58.00	
9/19/2020	\$156.00	\$74.00		\$82.00
9/26/2020	\$156.00	\$90.00		\$66.00
10/3/2020	\$156.00	\$147.00		\$9.00
		TOTAL:	\$610.00	\$273.00

Claimant was underpaid a total of \$610.00 and overpaid a total of \$273.00. Therefore, claimant's net underpayment is \$337.00.

The next issue to be determined is whether claimant was overpaid FPUC benefits. 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 decision that found claimant ineligible for UI benefits remains in effect. Because claimant is not eligible for UI benefits, claimant is also not eligible for FPUC benefits. Therefore, claimant has received FPUC benefits to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid FPUC benefits in the amount of \$1,200.00 for the two-week period between July 12, 2020 and July 25, 2020. Those benefits must be recovered in accordance with Iowa law.

**DECISION:**

The September 9, 2022 (reference 02) unemployment insurance decision is MODIFIED IN FAVOR OF APPELLANT. Claimant is not overpaid PEUC benefits; claimant has been **underpaid** PEUC benefits in the net amount of \$337.00. Claimant has been overpaid FPUC benefits in the amount of \$1,200.00, which must be repaid.



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Adrienne C. Williamson  
Administrative Law Judge

October 25, 2022  
Decision Dated and Mailed

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**NOTE TO CLAIMANT:** This decision determines you have been overpaid benefits under the CARES Act. If you disagree with this decision, you may file an appeal by following the instructions below. Additionally, instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

**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  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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.