

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

FELICIA M SEAY
Claimant

APPEAL NO: 22A-UI-10389-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/20/20
Claimant: Appellant (1R)

Iowa Code § 96.6(2) – Timeliness of Appeal
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 8, 2022, (reference 02) unemployment insurance decision that concluded she was overpaid \$6,900.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits. After proper notice, a telephone hearing was conducted on June 9, 2022. The hearing was held jointly with appeal 22A-UI-10389-SN-T. The claimant participated. Official notice of the administrative records was taken.

ISSUES:

Whether the claimant's appeal is timely?

Whether there are reasonable grounds to find the claimant's appeal otherwise timely?

Is the claimant overpaid Federal Pandemic Unemployment Compensation (FPUC)?

FINDINGS OF FACT:

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

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 20, 2020.

The claimant received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$6,900.00 in federal benefits for the period of December 27, 2020 and June 12, 2020. The claimant appealed this decision. An administrative law judge affirmed the decision in an appeal decision, 21A-UI-07550-S2-T. The claimant did not appeal this decision.

In March 2021, the claimant applied for and was approved for Pandemic Unemployment Assistance ("PUA"). The administrative record KLOG shows entries on March 30, 2021 and April 28, 2021 stating that PUA payments were pending. The earlier entry states PUA payments

were pending until Iowa Workforce Development received the claimant's 2020 tax return. The latter entry dated April 28, 2021 reads, "PUA pending paying out reg UI."

The following section describes the findings of fact necessary to resolve the timeliness issue:

A disqualification decision was mailed to the claimant's address of record on March 8, 2022. (Exhibit D-1) The claimant did not receive the decision. The claimant did not receive the decision because the landlord had not properly maintained the mailbox. The US Postal Service refused to deliver mail to the claimant's address deeming it an "improper mailbox."

The claimant became aware that her pay was being garnished due to the improper debt on April 18, 2022. The claimant called Iowa Workforce Development that same day and spoke with a representative. The representative informed her to file an application to waive her federal overpayment.

On April 25, 2022, the claimant called Iowa Workforce Development because she had not heard about the status of her waiver. During the call, a representative informed the claimant of the right to appeal the decisions. The claimant sent her appeal by facsimile using an IowaWorks facsimile machine that same day. (Exhibit D-2)

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of issuance of the notice of the filing of the claim to protest payment of benefits to the claimant. All interested parties shall select a format as specified by the department to receive such notifications. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was issued, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant timely appealed when she was given notice of her right to appeal and informed of grounds for appeal. Therefore, the appeal shall be accepted as timely.

The issue in this case is whether the claimant was overpaid FPUC benefits.

PL116-136, 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...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). The claimant was overpaid \$6,900.00 in Federal Pandemic Unemployment Compensation (FPUC).

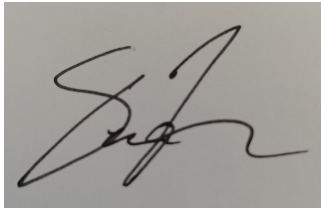
DECISION:

The unemployment insurance decision dated March 8, 2022, (reference 02), is affirmed. The claimant was overpaid \$6,900.00 in Federal Pandemic Unemployment Compensation (FPUC).

REMAND:

The administrative law judge is remanding to the Benefits Bureau the issue regarding a decision with appeal rights regarding the claimant's PUA eligibility. If the claimant is eligible for PUA benefits, the administrative law judge is remanding to the Benefits Bureau a determination of offsetting of this regarding overpayment by PUA payments she is owed consistent with PL 116-136, Sec. 2104.

The administrative law judge is also remanding to the Collections Unit the issue regarding waiver of the claimant's federal waiver application.



Sean M. Nelson
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August 31, 2022
Decision Dated and Mailed

smn/kmj