

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSHUA L. ANDREWS
Claimant

GEHRKE INC
Employer

APPEAL 22A-UI-07802-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/17/21
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)
Iowa Code § 96.1A(37)a & b – Total and Partial Unemployment
Iowa Code § 96.5(5)-Compensation

STATEMENT OF THE CASE:

On March 21, 2022, the claimant/appellant filed an appeal from the March 10, 2022, (reference 05) unemployment insurance decision that concluded the claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$1,800.00 as a result of incorrectly reported wages decision. The hearing notice did not have the correct issues on the notice. The parties agreed to waive in the issue of whether claimant was overpaid FPUC benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 11, 2022. The hearing was held together with appeal 22A-UI-07800-CS-T and combined into one record. The claimant participated. The employer participated through Payroll Specialist, Pam Schwarck. Administrative notice was taken of the claimant's unemployment insurance benefits records. Exhibit D-1 was admitted into the record.

ISSUES:

- I. Is claimant totally, partially or temporarily unemployed?
- II. Was the claimant overpaid Federal Pandemic Unemployment Compensation (FPUC)?
- III. Did the claimant correctly report wages earned?
- IV. Was the claimant was overpaid benefits?

FINDINGS OF FACT:

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

Claimant filed an initial claim for unemployment insurance benefits effective January 17, 2021. Claimant's weekly benefit amount was \$493.00. In January 2021 claimant worked for the employer as a laborer earning \$22.00 per hour.

Claimant filed for benefits for the week ending January 23, 2021. Claimant reported \$220.00 in wages for the week. Claimant actually worked 26 hours and earned \$572.00 for the week ending January 23, 2021. (Exhibit D-1, pg. 1). Claimant received \$396.00 in state unemployment benefits for the week. Claimant receive \$300.00 in FPUC benefits for the week.

For the week ending January 30, 2021, claimant filed a weekly claim and reported \$450.00 in earned wages. Claimant worked 41 hours and earned \$1,089.00 for the week ending January 30, 2021. (Exhibit D-1, pg. 1). Claimant received \$166.00 in state unemployment insurance benefits. Claimant receive \$300.00 in FPUC benefits for the week.

For the week ending February 13, 2021, claimant reported that he earned \$400.00 in earned wages. Claimant worked 38.5 hours and earned \$968.00 for the week ending February 13, 2021. (Exhibit D-1, pg. 1). Claimant received \$216.00 in state unemployment insurance benefits for the week ending February 13, 2021. Claimant receive \$300.00 in FPUC benefits for the week.

For the week ending February 27, 2021, claimant reported that he earned \$420.00 in earned wages. Claimant worked 37.5 hours and earned \$869.00 in wages. (Exhibit D-1, pg. 1). Claimant received \$196.00 in state unemployment benefits. Claimant receive \$300.00 in FPUC benefits for the week.

For the week ending March 6, 2021, claimant reported that he earned \$475.00 in earned wages. Claimant worked 40.5 hours and earned \$896.50 in wages. (Exhibit D-1, pg. 1). Claimant received \$141.00 in state unemployment benefits. Claimant receive \$300.00 in FPUC benefits for the week.

For the week ending March 20, 2021, claimant reported that he earned \$300.00 in earned wages. Claimant worked 29 hours and earned \$638.00 in wages. (Exhibit D-1, pg. 1). Claimant received \$316.00 in state unemployment benefits. Claimant receive \$300.00 in FPUC benefits for the week.

In total the claimant received \$1,800.00 in FPUC benefits the six-weeks ending January 23, 2021, January 30, 2021, February 13, 2021, February 27, 2021, March 6, 2021, and March 20, 2021. The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 22A-UI-07800-CS-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is overpaid FPUC benefits:

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 38, 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 Code section 96.3(7) provides, in pertinent part:

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.

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...

The FPUC program was extended and the weekly benefit amount was reduced to \$300.00 by the consolidated Appropriations Act, 2021.

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 \$1,800.00 in Federal Pandemic Unemployment Compensation (FPUC).

The issues of whether claimant is partially, totally, and temporarily unemployed and whether claimant correctly reported wages earned has been addressed in the case 22A-UI-07800-CS-T and will not be readdressed in this appeal.

DECISION:

The March 10, 2022 (reference 05) unemployment insurance decision is AFFIRMED. The claimant was overpaid \$1,800.00 in Federal Pandemic Unemployment Compensation (FPUC).



Carly Smith
Administrative Law Judge

June 7, 2022
Decision Dated and Mailed

cs/scn

Note to Claimant:

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

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>