

PL116-136, Sec. 2104(f)(2). In this case the Claimant was denied benefits and appealed. Despite being denied benefits the State of Iowa decided to release funds to the Claimant pending the outcome of Claimant's appeal. We note that Claimants are advised throughout the appeal process to continue to file weekly claims even if denied benefits. The Claimant here did so and was paid benefits until the Administrative Law Judge issued the appeal decision locking the claim. The Claimant was paid FPUC in addition to regular state benefits. We now consider whether the FPUC overpayment can be waived.

In deciding the question of fault, we will consider factors such as whether a material statement or representation was made by the Claimant in connection with the application for benefits, whether the Claimant knew or should have known that a fact was material and failed to disclose it, whether the Claimant should have known the Claimant was not eligible for benefits, and whether the overpayment was otherwise directly caused by the knowing actions of the Claimant. In deciding equity and good conscience we consider whether the overpayment was the result of a decision on appeal, and the financial hardship caused by a decision requiring overpayment. *Cf.* 871 IAC 24.50(7) (setting out factors for similar issue under TEUC from 2002). Applying these factors to the totality of the circumstances in this case including that the Claimant obviously did nothing to induce payment since benefits were *denied* from the beginning, we find on this individualized basis that the **FPUC overpayment** should be waived.

The Employer should note that the Employer will not be charged for any waived FPUC.

If after today the Claimant should receive an overpayment decision concerning the overpayment(s) we have waived then the Claimant should appeal that decision. The Claimant should retain our decision to present to IWD in response to any such decision. The Claimant likewise should present this order to IWD if the Claimant should receive a bill for a waived overpayment.

DECISION:

The decision of the Administrative Law Judge dated **February 16, 2021** is **AFFIRMED AS MODIFIED IN THE CLAIMANT'S FAVOR** but with **NO EFFECT ON THE EMPLOYER**.

The overpayment of \$6,600 in FPUC benefits is hereby waived, and the Claimant has no obligation to pay back those benefits. The Claimant continues to be obliged to repay the overpayment of \$3,241 in state benefits since the law does not permit us to waive the regular state benefit overpayment. The Employer will not be charged for waiver of FPUC since FPUC is a federally funded benefit. In all other respects the decision of the Administrative Law Judge is affirmed.

James M. Strohman

Ashley R. Koopmans

DISSENTING OPINION OF MYRON R. LINN:

I respectfully dissent from the majority decision of the Employment Appeal Board. After careful review of the record, I would affirm the decision of the administrative law judge without modification.

AMG/fnv

Myron R. Linn