

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BEVERLY H PAWLETZKI
Claimant

APPEAL NO. 21A-UI-19366-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (1)

Public Law 116-136, §2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 23, 2021, reference 10, decision that held she was overpaid \$3,000.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the five weeks between May 3, 2020 and June 6, 2020, due to the reference 01 decision that disqualified her for benefits based on an able and available determination. After due notice was issued, a hearing was held on October 25, 2021. The claimant participated in the hearing. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-19365-JTT. Exhibits A and B, the online appeals, were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, NMRO, the reference 01 through reference 10 decisions, and Agency determination that the claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits.

ISSUE:

Whether the claimant was overpaid \$3,000.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the five weeks between May 3, 2020 and June 6, 2020, due to the reference 01 decision that disqualified her for benefits based on an able and available determination.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective March 15, 2020. Iowa Workforce Development set the weekly benefit amount for regular state benefits at \$239.00. The claimant received regular benefits that included \$1,069.16 for the five weeks between May 3, 2020 and June 6, 2020. The claimant also received \$3,000.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for those same five weeks.

On October 1, 2020, Iowa Workforce Development mailed the reference 01 decision to the claimant. This is the decision referred to in the reference 09 overpayment decision as the September 30, 2020 decision. The reference 01 decision denied benefits for the five weeks between May 3, 2020 and June 6, 2020, based on the deputy's conclusion that the claimant

was working enough during that period to be considered employed and therefore did not meet the unemployment insurance “availability” requirement. The claimant did not appeal the reference 01 decision and the decision became final. The reference 01 decision triggered the overpayment decision from which the claimant appeals in the present matter. Though the claimant does not recall receiving the reference 01 decision, or the reference 05 decision mailed on the same day, the claimant has not kept the decisions she received from Iowa Workforce Development. During a move to Ames during the summer of 2021, the claimant discarded documents she received from Iowa Workforce Development under the belief that she would not need them.

REASONING AND CONCLUSIONS OF LAW:

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, 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.

Because the reference 01 decision denied benefits for the period of May 3, 2020 through June 6, 2020, the \$3,000.00 in FPUC benefits the claimant received for that period is an overpayment of benefits. The claimant must repay the overpaid FPUC benefits unless she applies for and is approved for waiver of repayment of FPUC benefits. See below.

DECISION:

The August 23, 2021, reference 10, decision is affirmed. The claimant was overpaid \$3,000.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the five weeks between May 3, 2020 and June 6, 2020, due to the reference 01 decision that denied benefits for those five weeks. The claimant must repay the overpaid FPUC benefits unless she applies for and is approved for waiver of repayment of FPUC benefits. See below.



James E. Timberland
Administrative Law Judge

November 08, 2021
Decision Dated and Mailed

jet/ol

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/unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.