

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

JONGIM CHANG

Claimant

and

**PRAIRIE MEADOWS RACETRACK &
CASINO**

Employer

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HEARING NUMBER: 22B-UI-17157

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.4-3, 96.6-2

DECISION

The Claimant appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Board adds the following analysis to the Administrative Law Judge's decision.

This Claimant filed a claim series starting on the BWE April 4, 2020 (that is during the week 3/29/20 through 4/4/20) and ending on BWE June 27, 2020. This is thirteen weeks. Based on decisions issued today the Claimant is disallowed and overpaid regular state benefits for the first five weeks, allowed for the next six weeks, and disallowed and overpaid regular state benefits for the last two weeks. She owes no federal overpayments because the majority of the Board waived the obligation to pay these back.

In the case before us, 17157, **even if we were to find** that the Claimant did not receive the Reference 01 decision, and thus were to find her appeal of decision Reference 01 to be timely, this would not change the outcome in this matter. We would affirm the finding that for 5 weeks in 2020 she was not eligible because

she was paid wages by Prairie Meadows. The Claimant's own evidence establishes this. She does not argue otherwise. A Claimant who is paid her normal wages for a given week is not eligible for benefits that week. Moreover, the Claimant's argument to us is that the Reference 01 disqualification period should be modified to reflect that she was not paid by Prairie Meadows for the entire time she filed for benefits. The fact is this is already how things stand.

What has happened is reference 01 disqualified the Claimant with no end date. Reference 02 came along later and, based on the open-ended disqualification, found the Claimant overpaid in state benefits for the entire 13 weeks she filed for benefits. Then along came Reference 03 which overpaid her for the federal FPUC benefits for the entire 13 weeks she filed for benefits (this was appealed to the Board and the entire overpayment was waived by two-member vote). These overpayments were premised on Reference 01, and the lack of an end date for that disqualification. Then comes Reference 04 which put an end date on the Reference 01 disqualification: May 2, 2020. As a result we see Reference 05 which *reduces* the regular overpayment to the five weeks *through* May 2, 2020, the newly identified end date for the disqualification caused by Reference 01. The next result is Reference 06 which *reduces* the federal FPUC overpayment to the five weeks *through* May 2, 2020, the newly identified end date for the disqualification caused by Reference 01. **This is the end of the decisions related to the weeks before June 14, 2020.** For the weeks before June 14 we find the Claimant denied for the five weeks ending 4/4/20, 4/11/20, 4/18/20, 4/25/20, & 5/2/20, and overpaid for those five weeks. She is allowed, and **not** overpaid, for the weeks ending 5/9/20, 5/16/20, 5/23/20, 5/30/20, 6/6/20, and 6/13/20. Now comes the two weeks at the end of the claim series, and a separate basis for disqualification. First up on this issue is the ill-fated Reference 07. That decision disqualifies the claimant for the weeks ending 6/20/20 and 6/27/20 because the claimant was back to work and was paid for those two weeks, and imposes the associated regular benefit overpayment. Had Reference 7 only found this it would have stood, but it also erroneously imposed a 15% penalty. Then comes Reference 08 which imposed the federal FPUC overpayment for the two weeks ending 6/20/20 and 6/27/20 based on the Reference 07 disqualification (being back to work). There is no FPUC penalty because federal law does not permit a penalty on FPUC. Then Reference 10 is issued¹ and gets rid of the 15% penalty of Reference 07, but continues to impose the \$992 regular overpayment for the weeks ending 6/20/20 and 6/27/20 because the claimant was back to work and was paid for those two weeks.

The result:

Ref 01	Disqualification from 3/29/20 which now ends as of 5/2/20 based on Reference 04.
Ref 02	A 13-week regular state overpayment which has been reduced and supplanted by the 5-week overpayment of Reference 05.
Ref 03	A 13-week federal FPUC overpayment which has been reduced and supplanted by the 5-week overpayment of Reference 06. The entire 13-week overpayment was waived by two-member vote in 21B-UI-13050.
Ref 04	The redetermination of Ref 01 which modifies that disqualification by placing an end date of 5/2/20 on the Reference 01 disqualification.

¹ Reference 9 "has been deleted" and whatever it was, it has no effect at this time.

Ref 05	Reduces the regular state overpayment of Reference 02, which is the overpayment resulting from Reference 01, to 5 weeks for a total regular state overpayment pertaining to the Reference 01 determination to \$2,480.
Ref 06	Reduces the federal FPUC overpayment of Reference 03, which is the federal overpayment resulting from Reference 01, to 5 weeks state for a total federal FPUC overpayment pertaining to the Reference 01 determination to \$3,000. This is waived by majority Board vote in case 21B-UI-13050.
Ref 07	A new disqualification and regular state overpayment pertaining to the weeks ending 6/20/20 and 6/27/20 based on the fact that the Claimant was working and was paid for those weeks. This decision also imposed a 15% penalty. This decision has been totally superseded by Reference 10.
Ref 08	Federal FPUC overpayment of \$1,200 pertaining to the weeks ending 6/20/20 and 6/27/20 based on the fact that the Claimant was working and was paid for those weeks. This is waived by majority Board vote in case 21B-UI-13050.
Ref 10	A correction of Reference 07 to remove the 15% penalty, but keeps the basis for disqualification (working), and the \$992 overpayment of regular state benefits for the weeks ending 6/20/20 and 6/27/20 based on the fact that the Claimant was working and was paid for those weeks.

For the Claimant's convenience we summarize the moneys now owed, and not waived, by us:

- \$2480 in regular benefits for the 5 weeks ending 4/4/20, 4/11/20, 4/18/20, 4/25/20, & 5/2/20. This is caused by decision Reference 01 as modified by decision Reference 05. The Claimant was paid by Prairie Meadows for these 5 weeks, as she admits, and therefore was found ineligible in Reference 01 through the date of eligibility as found in Reference 05. The record establishes this as correct even if we found the appeal of Reference 01 to be timely. The total of \$2,480 is all that is owed for these five weeks. We have waived, by two-member vote, the FPUC overpayment in case 21B-UI-13050.
- \$992 for the two weeks ending 6/20/20 and 6/27/20. This is the result of Reference 10, which removed the 15% penalty of Reference 07. The total of \$992 is all that is owed for these two weeks. We have waived, by two-member vote, the FPUC overpayment in case 21B-UI-13050, and the regular overpayment for \$992 can only be assessed once.

This means the total overpayment which Claimant still has an obligation to repay is: $\$2,480 + \$992 = \$3,472$ total. This is seven weeks at \$496 a week, and is the sum total of the overpayment owed as a result of today's decisions.

DECISION:

The decision of the Administrative Law Judge is affirmed, and benefits are denied as provided by the various decisions in this matter. For the Claimant's comfort, just in case the exhaustive and time-consuming discussion above is not clear enough, we make explicit that the decision in this case only provides that the Claimant is disqualified for the five weeks ending 4/4/20, 4/11/20, 4/18/20, 4/25/20, & 5/2/20. She is not disqualified by *this* decision for any other weeks.

James M. Strohman

Ashley R. Koopmans

RRA/fnv