

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**EMILY MCMAHON**  
Claimant

**APPEAL 21A-UI-01632-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/29/20**  
**Claimant: Appellant (4R)**

PL 116-136 Section 2104 – Federal Pandemic Unemployment Compensation (FPUC)

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the December 16, 2020 (reference 05) unemployment insurance decision that found claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$9,000.00 for fifteen weeks between March 29, 2020 and July 11, 2020. The claimant was properly notified of the hearing. A telephone hearing was held on February 23, 2021. The claimant participated personally and was represented by Attorney Emma Henry and Attorney Abby Brown. Claimant's Exhibits A, B, C, D, and E were admitted. The administrative law judge took official notice of the claimant's administrative records. The hearing was consolidated with Appeal No. 21A-UI-01630-DB-T and 21A-UI-01631-DB-T.

**ISSUE:**

Is the claimant overpaid FPUC benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed her original claim for unemployment insurance benefits effective March 29, 2020. Her established weekly benefit amount was \$348.00. Claimant filed weekly-continued claims for benefits from March 29, 2020 through July 11, 2020.

Claimant was paid regular unemployment insurance benefits funded by the State of Iowa in the amount of \$204.00 per week for seven weeks between March 29, 2020 through May 16, 2020. Claimant was also paid unemployment insurance benefits funded by the State of Iowa in the amount of \$348.00 per week for eight weeks from May 17, 2020 through July 11, 2020. Because she was paid regular unemployment insurance benefits at that time, she was also paid FPUC benefits for the weekly continued claims she filed between March 29, 2020 and July 11, 2020. She was paid FPUC benefits totaling \$9,000.00 for fifteen weeks between March 29, 2020 and July 11, 2020 (\$600.00 per week).

Claimant was working for The University of Iowa from March 29, 2020 through May 16, 2020 as an adjunct professor. She earned a stipend of \$6,000.00 for a class taught over 15 weeks. See

Exhibit E. When she filed her weekly-continued claims for benefits she reported the net amount earned and not the gross amount earned of \$400.00 per week.

An unemployment insurance decision dated July 2, 2020 (reference 01) that found the claimant was not eligible for regular unemployment insurance benefits effective March 29, 2020 was affirmed in Appeal No. 21A-UI-01630-DB-T. Another unemployment insurance decision dated July 2, 2020 (reference 02) found that the claimant was eligible for regular unemployment insurance benefits funded by the State of Iowa effective May 17, 2020.

When the claimant filed for benefits, she intended to file for Federal Pandemic Unemployment Assistance (PUA) benefits due to the loss of revenue from her self-employment as a wedding planner. Claimant has submitted two applications for PUA benefits and has not been issued a decision on her applications. The claimant's main source of income is her self-employment as a wedding planner. She owns Soiree LLC and has been operating that business for approximately six years. The issue of whether the claimant is approved for PUA benefits from March 29, 2020 through May 16, 2020 is remanded to the Benefits Bureau for an initial investigation and determination. Any PUA benefits payable may be subject to reduction due to the gross wages claimant earned from the University of Iowa in the weekly amount of \$400.00 from March 29, 2020 through May 16, 2020. Further, if the claimant is eligible for PUA benefits for any given week, she may also be eligible for FPUC benefits for that same week.

Claimant requests that any FPUC overpayment be waived. PL 116-136 Section 2104(f) allows but does not require states to waive repayment of overpaid FPUC benefits under certain circumstances. The specific issue of whether the claimant may have her FPUC overpayment waived has yet to be addressed by the Benefits Bureau of Iowa Workforce Development. The matter of whether the claimant's FPUC overpayment balance can be waived pursuant to PL 116-136 Section 2104(f) is remanded to the Benefits Bureau for an initial investigation and determination.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 96.3(7)a provides:

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, 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.

In this case, the claimant received FPUC benefits from March 29, 2020 through May 16, 2020 but was not eligible for those benefits. This was because of the July 2, 2020 (reference 01) decision that disqualified her from being eligible for regular unemployment insurance benefits funded by the State of Iowa. That decision was affirmed in Appeal No. 21A-UI-01630-DB-T.

However, the claimant was found eligible for regular unemployment insurance benefits funded by the State of Iowa effective May 17, 2020 due to the unemployment insurance decision that was issued on July 2, 2020 (reference 02). The claimant is not overpaid any FPUC benefits for the period of time which she was found eligible for regular unemployment insurance benefits, which was May 17, 2020 through July 11, 2020.

As such, the claimant has been overpaid FPUC benefits, but only for the dates of March 29, 2020 through May 16, 2020. The total amount of FPUC benefits that were paid to the claimant during that period was \$4,200.00 and the claimant is overpaid \$4,200.00 in FPUC benefits, subject to the remanded issues listed below.

PL 116-136 Section 2104(f) allows but does not require states to waive repayment of overpaid FPUC benefits under certain circumstances. The specific issue of whether the claimant may have her FPUC overpayment waived has yet to be addressed by the Benefits Bureau of Iowa Workforce Development. The matter of whether the claimant's FPUC overpayment balance, if it still exists after the remanded issues are investigated, can be waived pursuant to PL 116-136 Section 2104(f)(2) is remanded to the Benefits Bureau for an initial investigation and determination.

**DECISION:**

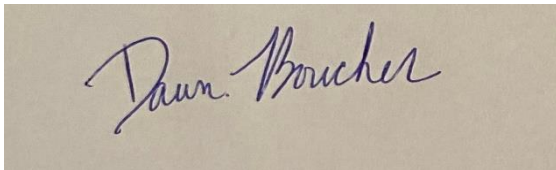
The December 16, 2020 (reference 05) unemployment insurance decision is modified in favor of the appellant. The claimant was overpaid FPUC benefits in the amount of \$4,200.00 for seven weeks between March 29, 2020 and May 16, 2020.

**REMAND:**

Whether the claimant is eligible for Pandemic Unemployment Assistance (PUA) benefits for the period of March 29, 2020 through May 16, 2020 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

The Benefits Bureau shall determine whether any payment of PUA benefits is subject to reduction by the gross wages of \$400.00 per week that the claimant earned between March 29, 2020 and May 16, 2020 from the University of Iowa. The Benefits Bureau shall also determine whether the claimant is eligible for FPUC benefits from March 29, 2020 through May 16, 2020 if she is found to be eligible for PUA benefits and adjust any overpayment accordingly.

The Benefits Bureau shall determine whether or not the FPUC overpayment balance, if it still exists after the other remanded issues, is subject to waiver pursuant to PL 116-136 Sec 2104(f)(2).



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Dawn Boucher  
Administrative Law Judge

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March 3, 2021  
Decision Dated and Mailed

db/lj

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.

- **You will need to apply for PUA to determine your eligibility under the program.**

For additional information on how to apply for PUA go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>.

- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.