

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JASON C KELLING
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO. 22A-UI-10198-AD

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/29/19
Claimant: Appellant (1)

PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation
PL 116-136, Sec. 2107 - Pandemic Emergency Unemployment Compensation

STATEMENT OF THE CASE:

On April 13, 2022, Jason Kelling (claimant/appellant) appealed the Iowa Workforce Development (“IWD”) decision dated April 5, 2022 (reference 03) that concluded the claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$5,214.00 and Federal Pandemic Unemployment Compensation in the amount of \$9,000.00 as a result of a prior decision denying benefits.

Claimant requested an in-person hearing. An in-person hearing was held at the IWD office at 1000 E Grand Ave. in Des Moines, Iowa on May 25, 2022. The parties were properly notified of the hearing. The claimant participated personally. Claimant’s mother, Celeste Kelling, observed the hearing.

Claimant’s proposed exhibits were not admitted due to not being properly submitted prior to the hearing date. Official notice was taken of the administrative record.

ISSUE:

Was the claimant overpaid Federal Pandemic Unemployment Compensation (FPUC)?

Was the claimant overpaid Pandemic Emergency Unemployment Compensation (PEUC)?

FINDINGS OF FACT:

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

Claimant filed an original claim for unemployment insurance benefits effective December 29, 2019. Claimant filed weekly continued claims through July 11, 2020.

An IWD decision was issued on July 17, 2020 (reference 01) finding claimant was discharged from work on December 29, 2019 for violation of a known company rule. Claimant appealed the decision. A telephone hearing before another administrative law judge was held on September 9, 2020. Claimant’s former employer participated in that hearing as well. The administrative law

judge affirmed the underlying decision but specifically determined claimant was discharged for disqualifying reasons on March 13, 2020. That decision was issued on September 10, 2020 and remains in force. See 20A-UI-08807-J1-T.

The administrative record shows claimant received PEUC in the gross amount of \$474.00 per week from the benefit week ending May 2 through the benefit week ending July 11, 2020. The gross amount of PEUC paid during this period is \$5,214.00.

The administrative record shows claimant received FPUC in the gross amount of \$600.00 per week for from the benefit week ending April 4 through the benefit week ending July 11, 2020. The gross amount of FPUC paid during this period is \$9,000.00.

Claimant argues the period of overpayment should not have begun on December 29, 2019 but instead on May 4, 2020. Claimant argues this is the correct date because he would not have returned to work from seasonal layoff until around that date. Claimant further argues he should have been eligible for pandemic-related benefits after that date because of the general advice at that time that people self-isolate.

The administrative law judge agrees the period of overpayment should not have begun on December 19, 2019. The period of overpayment begins with the benefit week ending March 14, 2020. This is because the administrative law judge who issued the September 10, 2020 decision regarding claimant's separation from employment specifically found the disqualifying separation occurred on March 13, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated April 5, 2022 (reference 03) that concluded the claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$5,214.00 and Federal Pandemic Unemployment Compensation in the amount of \$9,000.00 as a result of a prior decision denying benefits is **AFFIRMED**.

PL 116-136, 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.

PL 116-136, Sec. 2107 provides, in pertinent part:

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL. — Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the “Secretary”). Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(2) PROVISIONS OF AGREEMENT.— Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(D) are able to work, available to work, and actively seeking work.

...

(e) FRAUD AND OVERPAYMENTS.—

(2) REPAYMENT.—In the case of individuals who have received amounts of pandemic emergency unemployment compensation under this section to which they were not entitled, the State shall require such individuals to repay the amounts of such pandemic emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such pandemic emergency 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 pandemic emergency unemployment compensation payable to such individual under this section 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 pandemic emergency 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.

The administrative record shows claimant received PEUC in the gross amount of \$474.00 per week from the benefit week ending May 2 through the benefit week ending July 11, 2020. The gross amount of PEUC paid during this period is \$5,214.00.

The administrative record shows claimant received FPUC in the amount of \$600.00 per week for from the benefit week ending April 4 through the benefit week ending July 11, 2020. The gross amount of FPUC paid during this period is \$9,000.00.

Claimant was subsequently disqualified from benefits effective March 13, 2020 as determined in the administrative law judge decision issued on September 10, 2020. See 20A-UI-08807-J1-T. That decision is final and remains in force, meaning the undersigned does not have jurisdiction to change it at this point.

Because the claimant was disqualified from benefits he did not exhaust his right to regular compensation under state law and was therefore ineligible for PEUC. Claimant was therefore overpaid PEUC in the amount of \$5,214.00.

Because the claimant was disqualified from benefits and ineligible for PEUC he was also ineligible for FPUC. Claimant has therefore been overpaid FPUC in the amount of \$9,000.00.

The administrative law judge notes claimant may wish to apply for federal Pandemic Unemployment Assistance (PUA). Claimant may also wish to apply for a waiver of the federal overpayment amounts. Further information on those on those programs, including how to apply, is set forth below.

DECISION:

The decision dated April 5, 2022 (reference 03) that concluded the claimant was overpaid Pandemic Emergency Unemployment Compensation in the amount of \$5,214.00 and Federal Pandemic Unemployment Compensation in the amount of \$9,000.00 as a result of a prior decision denying benefits is **AFFIRMED**.



Andrew B. Duffelmeyer
Administrative Law Judge

May 26, 2022
Decision Dated and Mailed

abd/abd

Note to Claimant:

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 this decision determines you have been overpaid federal pandemic-related benefits you may request a waiver of the overpayment. Instructions for requesting a waiver can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

Individuals who do not qualify for regular unemployment insurance benefits and were unemployed between February 2, 2020, and June 12, 2021 for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** To apply for PUA go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals> and click the link in the last paragraph under "WHAT TO EXPECT FROM THE HEARING." **The authorization number is the PIN you used for the hearing.**

If this decision becomes final and you are not eligible for PUA, you may have an overpayment of benefits.