

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRETT A WAGNER
Claimant

APPEAL 21A-UI-21506-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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

PL 116-136, Sec. 2104(f)(2) – Overpayment of Federal Pandemic Unemployment Compensation
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On September 28, 2021, claimant filed an appeal from the July 2, 2021 (reference 02) unemployment insurance decision that concluded the claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$600.00 for the week ending April 11, 2020. Claimant was properly notified of the hearing. Appeal number 21A-UI-21504-AR-T was heard together and created one record. A telephone hearing was held on November 23, 2021. Claimant participated personally. Department's Exhibit D-1 was admitted. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant's appeal timely?
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 for and received FPUC benefits for the week of April 11, 2020, in the gross amount of \$1,200.00. The administrative record indicates that a duplicate payment of \$600.00 was issued to claimant for that week, resulting in an overpayment of \$600.00.

An unemployment insurance decision was mailed to claimant's last known address of record on July 2, 2021. Claimant did not receive the decision at that time. He filed an appeal after he received a collections statement from Iowa Workforce Development regarding this overpayment issue. Claimant submitted his appeal on September 28, 2021.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides, in pertinent part: “[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.”

Iowa Admin. Code r. 871—24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871—24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. Iowa Dep't of Job Serv.*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373, 377 (Iowa 1979); *see also In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

The appellant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of the decision, no meaningful opportunity for appeal exists. *See Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant promptly appealed the overpayment decision upon learning of it. Therefore, the appeal shall be accepted as timely.

For the following reasons the administrative law judge concludes the claimant was overpaid FPUC benefits for the period in question.

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...

Section 203 of the Continued Assistance for Unemployed Workers Act of 2020 provides in pertinent part:

(a) IN GENERAL. – Section 2104(e) of the CARES Act (15 U.S.C. 9023(e)) is amended to read as follows: . . .

“(e) APPLICABILITY. – An agreement entered into under this section shall apply –

(1) to weeks of unemployment beginning after the date on which such agreement is entered into and ending on or before July 31, 2020; and

(2) to weeks of unemployment beginning after December 26, 2020 (or, if later, the date on which such agreement is entered into), and ending on or before March 14, 2021.”.

(b) AMOUNT.-

(1) IN GENERAL. – Section 2104(b) of the CARES Act (15 U.S.C. 9023(b)) is amended –

(A) in paragraph (1)(B), by striking “of \$600” and inserting “equal to the amount specified in paragraph (3)”; and

(B) by adding at the end of the following new paragraph:

“(3) AMOUNT OF FEDERAL PANDEMIC UNEMPLOYMENT
COMPENSATION.-

“(A) IN GENERAL. – The amount specified in this paragraph is the following
amount:

“(i) For weeks of unemployment beginning after the date on which an
agreement is entered into under this section and ending on or before July 31,
2020, \$600.

“(ii) For weeks of unemployment beginning after December 26, 2020 (or,
if later, the date on which such agreement is entered into), and ending on or
before March 14, 2021, \$300.”.

The administrative record reflects that claimant received two FPUC payments for one week—the week ending April 11, 2020. Therefore, claimant has received FPUC benefits to which they were not entitled. The administrative law judge concludes that claimant has been overpaid FPUC benefits in the amount outlined in the findings of fact above. Claimant is obligated to repay the FPUC benefits unless repayment of this obligation is waived. Instructions on how to apply for a waiver are found below.

DECISION:

The decision of the representative dated July 2, 2021, (reference 02) is affirmed. Claimant's appeal is timely. Claimant has been overpaid FPUC benefits in the amount of \$600.00, which must be repaid.



Alexis D. Rowe
Administrative Law Judge

December 30, 2021
Decision Dated and Mailed

ar/scn

NOTE TO CLAIMANT:

- This decision determines you have been overpaid FPUC benefits. 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.
- You may also request a waiver of this overpayment. The written request must include the following information:
 1. Claimant name & address.
 2. Decision number/date of decision.
 3. Dollar amount of overpayment requested for waiver.
 4. Relevant facts that you feel would justify a waiver.
- The request should be sent to:

Iowa Workforce Development
Overpayment waiver request
1000 East Grand Avenue
Des Moines, IA 50319
- This Information can also be found on the Iowa Workforce Development website 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.