

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

DUSTIN L CROCKETT
Claimant

APPEAL 22A-UI-16239-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/17/20
Claimant: Appellant (1)**

PL 116-136 Section 2104(F)(2) – Pandemic Unemployment Compensation (FPUC)
PL 116-136 Section 2107(E)(2) – Pandemic Emergency Unemployment Compensation (PEUC)

STATEMENT OF THE CASE:

On August 15, 2022, Dustin Crockett, (claimant/appellant) filed an appeal from the August 11, 2022 (reference 04) unemployment insurance decision that denied claimant's request for a waiver of FPUC and PEUC overpayments due to claimant error. The claimant was properly notified of the hearing. A telephone hearing was scheduled to be held on September 15, 2022, at 10:00 AM. Claimant personally participated. The notice of hearing was defective in that it did not reference the PEUC overpayment. Claimant did not waive the defect. A new notice of hearing was issued and the claimant was properly notified of the hearing. A telephone hearing was held on September 30, 2022, at 10:00 AM . Claimant personally participated. Department's Exhibit D-1 (claimant's wavier application) was admitted. Judicial notice was taken of the administrative record, DBIN, NMRO, and Great Plains.

ISSUES:

Should the claimant's FPUC overpayment be waived?
Should the claimant's PEUC overpayment be waived?

FINDINGS OF FACT:

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

Claimant filed an original claim for regular unemployment insurance benefits funded by the State of Iowa effective May 17, 2020.

Claimant was subsequently found not to be eligible for PEUC benefits effective 10/11/20 in a decision dated 05/26/21, (reference 01) due to wages in another state made claimant eligible for benefits in that state. Claimant was in turn found to have been overpaid FPUC for the 20-week period ending 05/15/21 due to decision (reference 01) in a decision dated 10/20/21 (reference 03). The total FPUC overpayment was found to be \$6,000.00. Claimant was in turn found to have been overpaid PEUC for the 26-week period ending 05/15/21 due to decision (reference 01) in a decision dated 10/20/21 (reference 02). The total PEUC overpayment was found to be \$12,726.00. Claimant did not appeal any of these three decisions (reference 01, 02, 03) and

therefore they remain in place and are binding. Claimant filed an application for waiver of the overpayment of benefits of FPUC and PEUC on 10/26/21. See D-1.

The claimant was paid FPUC benefits over a 20-week period ending May 15, 2021. The total amount of FPUC paid during that period is \$6,000.00. The claimant was paid PEUC from the week ending October 31, 2020 and continuing through the week ending May 15, 2021. The total amount of PEUC paid during that period is \$12,726.00. The overall total payment is \$18,726.00

FPUC and PEUC was initially paid to the claimant because no initial determination finding the claimant was not eligible had been made at that time. There has been no finding that the overpayments were the result of fraud or misrepresentation.

The claimant was concerned regarding these benefits and kept them in his bank account. Claimant had \$22,000.00 in the bank account when he filed his waiver application if he had to repay the overpayment. At the time of the hearing, he was not sure of the exact amount in the bank account, but thought it was a little less than the \$22,000.00.

Besides claimant, the household has his spouse and two children for whom they care for. At the time of application, claimant's household gross monthly income was \$3,000.00 and at the time of the hearing it is roughly \$15,190.00 and anticipated to be a gross income for the year of over \$150,000.00. For a household of four, this is over seven times the poverty threshold level.

Claimant's monthly expenses typically do not exceed their monthly income. Claimant has just over \$25,000.00 in credit card debt. Claimant has a bank account with a little less than \$22,000.00 in it for which to repay the overpayment.

REASONING AND CONCLUSIONS OF LAW:

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

PL 116-136 Section 2104 of the CARES Act created a program in which an additional \$600.00 per week was payable to claimants who were eligible for at least \$1.00 per week in benefits stemming from other programs including regular unemployment insurance funded by the State of Iowa, Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, Iowa Extended benefits, and Trade Act benefits. This initial program ran from March 29, 2020 through July 25, 2020. Claimants were only eligible to receive FPUC payments if they were entitled to receive benefits from another applicable program. The payments of FPUC benefits were automatic so long as a claimant was determined to be eligible under one of the other applicable programs.

On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes Division N, Title II, Subtitle A, the Continued Assistance Act. Section 203 reauthorized the FPUC program for weeks of unemployment beginning after December 26, 2020 and ending on or before March 14, 2021 and modified the weekly supplement payment to \$300.00. On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (ARPA). Section 9103 of ARPA amends Section 2104 of the CARES Act of 2020 and extended the FPUC program for weeks of unemployment ending on or before September 6, 2021. On May 11, 2021, Governor Reynolds announced that Iowa would end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for FPUC benefits in Iowa was the week ending June 12, 2021. The CARES Act provides that a State agency may waive repayment of an overpayment in certain circumstances.

PL 116-136, Sec. 2104(f)2 provides:

EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(f) Fraud and Overpayments. –

(1) In general. – If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual –

(A) Shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) Shall be subject to prosecution under section 1001 of title 18, United States Code.

(1) 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 amount 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(e)(2) provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(e)(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 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.

In determining whether the payment of FPUC/PEUC benefits was without fault on the part of the claimant, several factors must be considered. Those factors include whether a material statement or representation was made by the claimant in connection with the application for benefits and whether the claimant knew or should have known that the statement was inaccurate; whether the claimant failed or caused another to fail to disclose a material fact in connection with the

application for benefits that resulted in the overpayment and whether the claimant knew or should have known that the fact was material; whether the claimant knew or could have been expected to know that they were not entitled to the compensation payment; and whether the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the claimant or of which the claimant had knowledge and which was erroneous or inaccurate or otherwise wrong. *Cf.* Iowa Admin. Code r. 871-24.50(7)(factors for waiver of temporary extended unemployment compensation).

In deciding whether repayment would be contrary to equity and good conscience, several factors must be considered. Those factors include whether repayment would cause financial hardship to the claimant; or, that the claimant (regardless of financial circumstances) can establish that they have relinquished a valuable right or changed positions for the worse; or, recovery would be unconscionable under the circumstances. See UIPL No. 20-21(4)d. Other factors include whether the overpayment was the result of a decision on appeal; whether the state agency had given notice to the claimant that they may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal; and whether recovery of the overpayment will cause financial hardship to the claimant. *Cf.* Iowa Admin. Code r. 871-24.50(7) (factors for waiver of temporary extended unemployment compensation).

A The claimant was initially paid FPUC and PEUC due to their initial eligibility for regular unemployment insurance benefits; however, the claimant was later determined to be ineligible for PEUC benefits. See decision (reference 01) addressed above that was not appealed from and remains in place. There has been no finding that the overpayment was the result of fraud or misrepresentation. However, the waiver was declined based upon the fault of claimant for not reporting wages from the other state (see decision reference 01).

Claimant must also demonstrate that repayment would be contrary to equity and good conscience. Here, based upon the claimant's financial circumstances, recovery of the overpayment would not cause a financial hardship to the claimant. Claimant's gross annual income at the time of the application exceeded the poverty level guidelines and at the time of the hearing exceed the poverty level guidelines by a multiple of just over seven times. Further, claimant testified there is money in the bank at a sufficient amount to pay the overpayment with some funds remaining thereafter. As such, the claimant's overpayment amount of \$18,726.00 in combined FPUC and PEUC benefits he received shall not be waived. Claimant is obligated to pay back the FPUC and PEUC overpayments in full.

DECISION:

The August 11, 2022 (reference 04) unemployment insurance decision is **AFFIRMED**. Claimant's application for a waiver is denied. Claimant's overpayment of FPUC and PEUC benefits in the total amount of \$18,726.00 is affirmed, and claimant is obligated to repay these benefits.



Darrin T. Hamilton
Administrative Law Judge

October 7, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.