

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLEY MCELHENNY
Claimant

APPEAL 21A-UI-19040-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/19/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2107 –Pandemic Emergency Unemployment Compensation (PEUC)

STATEMENT OF THE CASE:

Ashley McElhenny, the claimant/appellant, filed an appeal from the August 20, 2021, (reference 05) unemployment insurance decision that concluded she was overpaid Pandemic Emergency Unemployment Compensation (PEUC) benefits in the amount of \$1,656.00. Ms. McElhenny was properly notified of the hearing. A telephone hearing was held on October 21, 2021. Ms. McElhenny participated and testified. The administrative law judge took official notice of the administrative record.

ISSUES:

Has Ms. McElhenny been overpaid PEUC benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. McElhenny received PEUC benefits in the amount of \$1,656.00 for nine weeks between July 12, 2020 and September 12, 2020.

On October 9, 2020, Iowa Workforce Development issued a reference 02 decision finding Ms. McElhenny was not eligible for REGULAR UI benefits as of April 19, 2020 because Ms. McElhenny did not have childcare and could not attend work. Ms. McElhenny appealed the decision to the Appeals Bureau of Iowa Workforce Development. The administrative law judge's decision in Appeal 21A-UI-19035-DZ-T affirmed the reference 02 decision.

On December 23, 2020, Iowa Workforce Development issued a reference 03 decision finding Ms. McElhenny was not eligible for REGULAR UI benefits based on an April 19, 2020 voluntary quit. Ms. McElhenny appealed the decision to the Appeals Bureau of Iowa Workforce Development. The administrative law judge's decision in Appeal 21A-UI-19037-DZ-T affirmed the reference 03 decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. McElhenny has been overpaid PEUC benefits.

Iowa Code §96.3(7) provides, in pertinent part:

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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Section 2107 of the CARES Act created a new temporary federal program called Pandemic Emergency Unemployment Compensation (PEUC) that initially provided up to 13 additional weeks of benefits to individuals who have exhausted their regular unemployment compensation entitlement and also provides funding to states to administer the program.

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(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.

Because Ms. McElhenny is disqualified from receiving REGULAR UI benefits, she is also disqualified from receiving PEUC benefits. The administrative law judge concludes that Ms. McElhenny has been overpaid PEUC benefits in the gross amount of \$1,656.00 for nine weeks between July 12, 2020 and September 12, 2020, which should be repaid.

DECISION:

The August 20, 2021, (reference 05) unemployment insurance decision is affirmed. Ms. McElhenny has been overpaid PEUC benefits in the amount of \$1,656.00, which must be repaid.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

November 02, 2021
Decision Dated and Mailed

dz/ol

NOTE TO MS MCELHENNY:

- This decision determines you have been overpaid PEUC 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 either 1) online, OR 2) in writing by mail.**

- The **online request form** is available on the Iowa Workforce Development website at: <https://www.iowaworkforcedevelopment.gov/federal-unemployment-insurance-overpayment-recovery>
- The **written request** must include the following information:
 - Your name & address.
 - Decision number/date of decision.
 - Dollar amount of overpayment requested for waiver.
 - 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

- If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.