

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

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**PETER S KORTENKAMP**  
Claimant

**APPEAL 22A-UI-08443-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

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

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PL 116-136, Sec. 2107 – Pandemic Emergency Unemployment Compensation  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

Peter S Kortenkamp, the claimant/appellant, filed an appeal from the March 25, 2022 (reference 04) unemployment insurance (UI) decision that concluded he was overpaid Pandemic Emergency Unemployment Compensation (PEUC) benefits in the gross amount of \$9,064.00. The parties were properly notified about the hearing. A telephone hearing was held on May 20, 2022. Mr. Kortenkamp participated personally. Mackensie Graham, attorney, represented Mr. Kortenkamp. The department did not participate in the hearing. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Has Mr. Kortenkamp been overpaid PEUC benefits?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Kortenkamp filed an initial claim for REGULAR (state) UI benefits effective March 15, 2020. Mr. Kortenkamp filed weekly continued claims and IWD paid him REGULAR (state) UI benefits on his claim. IWD also paid Mr. Kortenkamp PEUC benefits in the gross amount of \$9,064.00 for 23 weeks between September 6, 2020 and March 13, 2021.

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.

Almost one year and two months after he filed his initial claim effective March 15, 2020, and after he had already received REGULAR (state) UI benefits, IWD issued a May 10, 2021, (reference 02) UI decision finding Mr. Kortenkamp not eligible for REGULAR (state) UI benefits as of March 15, 2020 because Mr. Kortenkamp was still employed with employer Cornell College for the same hours and wages as in his original contract of hire. Mr. Kortenkamp appealed the UI decision to the Iowa Workforce Development Appeals Bureau. The administrative law judge's decision in Appeal 22A-UI-08441-DZ-T modified the reference 02 UI

decision in favor of Mr. Kortenkamp and found Mr. Kortenkamp is eligible for UI benefits as of March 15, 2020 because he was partially unemployed.

**REASONING AND CONCLUSIONS OF LAW:**

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

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.

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.

Pending remand, Mr. Kortenkamp has been overpaid PEUC benefits in the gross amount of \$9,064.00 for 13 weeks between September 6, 2020 and March 13, 2021, which should be repaid. Mr. Kortenkamp is eligible for REGULAR (state) UI benefits as of March 15, 2020, but employer, Cornell College's account shall not be charged, per the administrative law judge's decision in Appeal 22A-UI-08441-DZ-T. This matter shall be remanded (sent back) to the Benefits Bureau of Iowa Workforce Development for recalculation of the PEUC benefit overpayment amount.

**DECISION:**

The March 25, 2022, (reference 04) decision is AFFIRMED, PENDING REMAND. Mr. Kortenkamp has been overpaid PEUC benefits in the gross amount of \$9,064.00, which must be repaid.

**REMAND:**

This matter is REMANDED (sent back) to the Benefits Bureau of Iowa Workforce Development for recalculation the PEUC benefit overpayment amount since Mr. Kortenkamp is eligible for REGULAR (state) UI benefits as of March 15, 2020 per the administrative law judge's decision in Appeal 22A-UI-08441-DZ-T.



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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

July 20, 2022  
Decision Dated and Mailed

dz/mh

**NOTE TO MR. KORTENKAMP:**

- If, after recalculation, IWD determines that you have been overpaid PEUC benefits, you may file an appeal from that decision by following the instructions on the decision.
- **You may also request a waiver of the PEUC overpayment 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 an IWD decision finding you were overpaid PEUC benefits becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.
- To check on your waiver application call **888-848-7442** or email [iwduiatax@iwdiowa.gov](mailto:iwduiatax@iwdiowa.gov)

**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  
4<sup>th</sup> 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](http://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.