

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARMIN C COOK
Claimant

APPEAL NO. 23A-UI-06698-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/26/20
Claimant: Appellant (1R)

Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits
Fed Law PL 116-136, Sec. 2107 – Overpayment of PEUC

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated June 28, 2023, (reference 03) that concluded claimant was overpaid state and PEUC unemployment insurance benefits as a result of a disqualification decision. A hearing was scheduled and held on July 25, 2023 pursuant to due notice. Claimant did participate. Claimant agreed to waive time and notice and allow the issue before the administrative law judge to be changed from the incorrect issue of overpayment of FPUC benefits to the correct issue of overpayment of PEUC benefits as listed on the reference 03 decision

ISSUES:

Whether claimant is overpaid unemployment insurance benefits?

Whether claimant is overpaid PEUC unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The overpayment issue in this case was created by a ruling claimant was improperly paid unemployment benefits. Claimant was deemed to have been overpaid unemployment benefits in the amount of \$9,525.00 for the 20 weeks ending December 5, 2020, and overpaid PEUC benefits in the amount of \$10,000.00 for the 20 weeks ending April 24, 2021. Claimant admitted to receiving these payments.

Claimant was determined to be ineligible to receive unemployment benefits from the date of July 24, 2020 in case number 23A-UI-06697-B2-T. Claimant was determined to be eligible to receive PUA benefits on August 18, 2021. Claimant's allowance included the entire time she received state and PEUC benefits.

Whereas claimant's weekly benefit amount was determined to be \$500.00 / week, when claimant was approved for PUA benefits, it was at the amount of \$203.00 / week. The reason for this disparity in WBA is unknown.

The administrative law judge does note that the current list of amount of overpayment for claimant as currently reflected through Great Plains is listed as \$0.00.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

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. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(e) 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 pandemic emergency unemployment compensation under this section to which such individual was not entitled, such individual— (A) shall be ineligible for further pandemic emergency unemployment compensation under this section 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. (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.

The administrative law judge does note that claimant was granted PUA benefits that may cover the overpayments in both of these matters. The granting of PUA benefits, and the PEUC benefits that may follow is not calculated into the overpayments. These amounts were known by the benefits bureau at the time of the reference 03 decision, yet were not reflected in the decision. The weekly benefit amounts listed for claimant through regular benefits (\$500.00) and PUA benefits (\$203.00) are not similar.

The administrative law judge concludes that claimant was overpaid unemployment insurance benefits in the amount of \$9,525.00 for the 20 weeks ending December 5, 2020, pursuant to Iowa Code section 96.3-7 and PEUC benefits in the amount of \$10,000.00 for the 20 weeks ending April 24, 2021, pursuant to Fed. Law PL 116-136, SEC. 2107.

Although the disqualification decision that created the overpayment decisions has now been affirmed, such decision does not address the subsequent granting of PUA benefits. The amount of the overpayments, if any, cannot be determined at this time as it is unknown why the weekly benefit amounts differ between regular benefits and the PUA benefits granted. It may be that this difference was calculated in error, and there should be no overpayment of either the regular benefits or the PEUC benefits received. Further action must be done by the benefits bureau to first determine why the benefits amounts differed between PUA and regular benefits, and then apply to difference of the two amounts (\$297.00/week) to the 20 weeks for potential overpayment of regular benefits, and also to the 20 weeks of PEUC benefits.

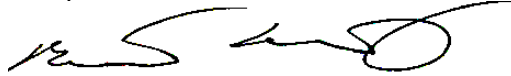
This matter is remanded to the benefits bureau for a determination as to whether there should be a recalculation of the PUA award to be equivalent to the amount granted for regular benefits, as it should have been based on the same wages. This recalculation may well affect or eliminate the overpayment amounts of these matters. As the matters exist at this time, the amount of overpayment of PEUC benefits must, at the least, be reduced. It is noted that currently there appears to be no overpayment amount on the Great Plains website for overpayments. Further calculations by the benefits bureau may entirely eliminate overpayments of those benefits.

DECISION:

The decision of the representative dated June 28, 2023, (reference 03) is affirmed at this time, and remanded to the benefits bureau.

This matter is remanded to the benefits bureau for a recalculation of overpayments that properly reflects the fact that claimant was granted PUA benefits in this matter for the entire time claimant received regular and PEUC benefits. Additionally, the benefits bureau is instructed to look into the differences between the claimant's weekly benefit amount of \$500.00 and the PUA benefit amount of \$203.00 and apply the correct calculation to determine the overpayment of both the regular unemployment benefits and PEUC benefits. These calculations may result in a

complete or partial setoff of amounts claimant was eligible to receive as opposed to the overpaid amounts of benefits.



Blair Bennett | Administrative Law Judge II
Iowa Department of Inspections & Appeals

July 27, 2023
Decision Dated and Mailed

bab/scn

NOTE TO CLAIMANT:

- 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 last 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.

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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

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.