

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

STEFAN L WEINBERGER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**APPEAL 22O-UI-16246-DB-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/05/20
Claimant: Appellant (1)**

PL 116-136 Sec 2107 –Pandemic Emergency Unemployment Compensation (PEUC)

STATEMENT OF THE CASE:

On October 20, 2021, the claimant/appellant filed an appeal from the October 14, 2021 (reference 07) unemployment insurance decision that found claimant was overpaid PEUC benefits for twenty-two weeks ending April 10, 2021. A hearing was scheduled for December 15, 2021 and a default dismissal decision was entered in Appeal No. 21A-UI-23565-JC-T. An appeal to the Employment Appeal Board (EAB) was filed by the claimant and the matter was remanded to the Appeals Bureau for a new hearing date and time. A second hearing date and time was scheduled for May 20, 2022. A default dismissal decision was entered in Appeal No. 22R-UI-08257-DB-T on May 31, 2022. Another appeal to the EAB was filed and the EAB remanded the matter to the Appeals Bureau for another hearing date and time. A third hearing was scheduled pursuant to due notice. The telephone hearing was held on September 16, 2022. The claimant participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records. The hearing was consolidated with Appeal No. 22O-UI-16245-DB-T and 22O-UI-16247-DB-T.

ISSUE:

Is the claimant overpaid PEUC benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant had filed for unemployment insurance benefits in Iowa effective April 5, 2020. His weekly-benefit amount was \$147.00.

Between April 5, 2020 and June 13, 2020 the claimant filed weekly-continued claims for benefits and received his maximum benefit amount for regular unemployment insurance benefits funded by the State of Iowa in the amount of \$1,420.69. For the weeks between June 14, 2020 and August 1, 2020, the claimant filed weekly-continued claims for benefits and was paid PEUC benefits of \$936.00. Claimant began reporting wages earned in excess of his weekly-benefit amount, plus \$15.00 for the week-ending August 8, 2020; August 15, 2020; August 22, 2020; and August 29, 2020 so no benefits were paid to him during those four weekly-continued claims.

In July of 2020, the claimant began part-time employment for the United States Census Bureau, earning wages in Colorado. His hourly rate of pay was \$16.00. He worked for that employer from July of 2020 until October 17, 2020 when he permanently separated from employment. He worked approximately 20 hours per week but his hours would fluctuate at times.

Claimant filed an additional claim for benefits effective October 18, 2020 in Iowa. His weekly benefit amount remained at \$147.00 as his original claim year was still effective April 5, 2020.

Claimant received PEUC benefits at the rate of \$147.00 per week from October 18, 2020 through December 5, 2020 for a total PEUC benefit payment of \$975.00. PEUC benefits began paying out to his again beginning December 27, 2020 through April 10, 2021 at the rate of \$147.00 per week for a total paid during that time of \$2,205.00. Total PEUC benefits paid to the claimant from October 18, 2020 through April 10, 2021 was \$3,180.00.

Claimant also received supplemental FPUC payments based on his initial eligibility for PEUC benefits from December 27, 2020 through April 10, 2021 at the rate of \$300.00 per week for a total payment of FPUC in the amount of \$4,500.00.

Claimant visited with workforce representatives in Iowa and Colorado to determine his eligibility and payments. Because claimant had earned wages in Colorado, he appeared to be eligible for regular unemployment insurance benefits in the State of Colorado effective his additional claim date of October 18, 2020. He eventually filed a claim for benefits in Colorado, effective April of 2021 with an established weekly-benefit amount of \$83.00.

Colorado allowed the claimant to backdate his claim for payment of PEUC benefits during the period of October 18, 2020 through April 10, 2021; however, Colorado only paid him \$6,535.00 in benefits instead of the original amount of \$7,680.00 that he received originally from Iowa. Claimant was unable to determine why he received less PEUC and FPUC benefits from Colorado than he received from Iowa.

An unemployment insurance benefits decision was issued on October 14, 2021 (reference 06) that found the claimant was not eligible for PEUC benefits in Iowa effective October 18, 2020 because he was eligible for benefits in Colorado. That decision has been affirmed on appeal in Appeal No. 22O-UI-16245-DB-T.

REASONING AND CONCLUSIONS OF LAW:

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

Section 2107 of the CARES Act created a new temporary federal program called Pandemic Emergency Unemployment Compensation (PEUC) that 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.

(emphasis added).

The program was due to expire on December 31, 2020; however, it was extended in the Consolidated Appropriations Act (CAA) of 2021. The number of weeks that were extended increased from 13 to 24 and the CAA extensions expired March 14, 2021.

The American Rescue Plan Act of 2021 (ARPA) further extended the program to include up to 53 additional weeks of benefits and this was set to expire on September 6, 2021. However, 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 PEUC benefits in Iowa was the week ending June 12, 2021.

In this case, the claimant was initially paid PEUC benefits from Iowa between October 18, 2020 and April 10, 2021 but was later determined not to be eligible for those benefits. The decision finding claimant ineligible for PEUC benefits in Iowa effective October 18, 2020 was affirmed in Appeal No. 22O-UI-16245-DB-T. As such, the claimant is overpaid PEUC benefits of \$3,180.00 for the weeks between October 18, 2020 and April 10, 2021. Those benefits must be repaid unless a waiver is requested and granted.

Pursuant to PL 116-136 Section 2107(E)(2) of the CARES Act, the claimant may request a waiver of the overpayment of PEUC benefits. The request for waiver should be sent to:

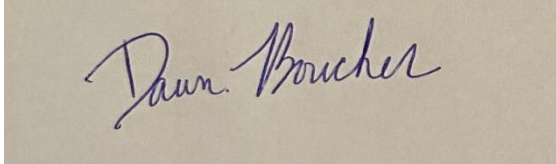
Iowa Workforce Development
Overpayment Waiver Request
1000 East Grand Avenue
Des Moines, Iowa 50319

The request for waiver of overpayment should include the claimant’s name, address, decision number and date of decision, dollar amount of overpayment requested for waiver, and all relevant facts the claimant feels would justify a waiver of the overpayment balance. The

claimant may also visit <https://www.iowaworkforcedevelopment.gov/application-overpayment-waiver>.

DECISION:

The October 14, 2021 (reference 07) unemployment insurance decision is affirmed. The claimant was overpaid PEUC benefits in Iowa effective October 18, 2020 through April 10, 2021 in the amount of \$3,180.00. Those benefits must be repaid to the agency unless a waiver is requested and granted.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher". The signature is written on a light-colored, textured background.

Dawn Boucher
Administrative Law Judge

October 7, 2022
Decision Dated and Mailed

db/sa

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 adquiriera 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.