

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHAEL HARRIS**  
Claimant

**APPEAL 21A-DUA-00819-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/29/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

On January 27, 2021, Michael Harris (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated January 19, 2021 (reference 02) that determined claimant was overpaid federal Pandemic Unemployment Assistance (PUA) in the total amount of \$19,000.00 for the 38 weeks ending December 19, 2020.

After due and proper notice was issued, a telephone hearing was held on Thursday, April 1, 2021. The claimant, Michael Harris, participated personally. Attorney Stuart L. Higgins represented the claimant. Iowa Workforce Development participated through witness Daniel Noonan, Investigator II; and attorney David J. Steen represented the Department.

Appeal Numbers 21A-DUA-00779-LJ-T, 21A-DUA-00819-LJ-T, 21A-DUA-00820-LJ-T, and 21A-DUA-00821-LJ-T were all heard together and created one comprehensive hearing record. At the outset of the hearing, the administrative law judge dismissed the issue of whether the appeal was timely filed.

Claimant's Exhibits 1 and 2 and Department's Exhibits 1-1 through 8-1 were offered and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Has claimant been overpaid Pandemic Unemployment Assistance?

**FINDINGS OF FACT:**

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

On January 19, 2021, Iowa Workforce Development entered a decision (reference 02) finding claimant was overpaid federal Pandemic Unemployment Assistance in the total amount of \$19,000.00 for all weeks between March 22, 2020 and December 19, 2020.

The claimant received PUA payments in the amount of \$19,000.00 between March 22, 2020 and December 19, 2020. Claimant's initial eligibility for PUA payments was based on the agency's

review of his application for PUA benefits. That eligibility has now been denied in 21A-DUA-00779-LJ-T.

Claimant filed weekly claims each week beginning with the week ending March 28, 2020, and ending with the week ending December 19, 2020. The administrative record shows he failed to report the commissions he earned as he received them from closed real estate transactions. A summary of claimant's weekly claims and the amounts he failed to report is below:

Benefit Week Start	Benefit Week End	Work Status	Amount Reported	Amount Earned
3/22/20	3/28/20	Still Working	\$1.00	\$0.00
3/29/20	4/4/20	Did not work	\$0.00	\$0.00
4/5/20	4/11/20	Did not work	\$0.00	\$3,240.00
4/12/20	4/18/20	Did not work	\$0.00	\$6,669.00
4/19/20	4/25/20	Did not work	\$0.00	\$0.00
4/26/20	5/2/20	Did not work	\$0.00	\$0.00
5/3/20	5/9/20	Still working	\$1.00	\$0.00
5/10/20	5/16/20	Did not work	\$0.00	\$0.00
5/17/20	5/23/20	Still working	\$1.00	\$3,456.00
5/24/20	5/30/20	Did not work	\$0.00	\$0.00
5/31/20	6/6/20	Still working	\$1.00	\$0.00
6/7/20	6/13/20	Still working	\$1.00	\$0.00
6/14/20	6/20/20	Still working	\$1.00	\$0.00
6/21/20	6/27/20	Still working	\$1.00	\$0.00
6/28/20	7/4/20	Still working	\$1.00	\$4,551.75
7/5/20	7/11/20	Still working	\$1.00	\$0.00
7/12/20	7/18/20	Still working	\$1.00	\$914.59
7/19/20	7/25/20	Still working	\$1.00	\$0.00
7/26/20	8/1/20	Still working	\$1.00	\$0.00
8/2/20	8/8/20	Still working	\$1.00	\$0.00
8/9/20	8/15/20	Still working	\$1.00	\$0.00
8/16/20	8/22/20	Still working	\$1.00	\$0.00
8/23/20	8/29/20	Still working	\$1.00	\$0.00
8/30/20	9/5/20	Still working	\$1.00	\$0.00
9/6/20	9/12/20	Still working	\$1.00	\$0.00
9/13/20	9/19/20	Still working	\$1.00	\$11,205.00
9/20/20	9/26/20	Still working	\$1.00	\$0.00
9/27/20	10/3/20	Still working	\$1.00	\$0.00
10/4/20	10/10/20	Still working	\$1.00	\$0.00
10/11/20	10/17/20	Still working	\$1.00	\$0.00
10/18/20	10/24/20	Still working	\$1.00	\$2,997.00
10/25/20	10/31/20	Still working	\$1.00	\$0.00
11/1/20	11/7/20	Did not work	\$0.00	\$0.00
11/8/20	11/14/20	Did not work	\$0.00	\$0.00
11/15/20	11/21/20	Did not work	\$0.00	\$0.00
11/22/20	11/28/20	Did not work	\$0.00	\$0.00
11/29/20	12/5/20	Did not work	\$0.00	\$0.00
12/6/20	12/12/20	Did not work	\$0.00	\$0.00
12/13/20	12/19/20	Did not work	\$0.00	\$0.00
		<b>TOTAL:</b>	<b>\$25.00</b>	<b>\$33,033.34</b>

When claimant initially filed his application for unemployment insurance benefits, he agreed that he read the Unemployment Insurance Claimant Handbook. The system is designed in such a way that claimant could not have completed his application without checking a box indicating he agreed that he read this handbook. The Unemployment Insurance Claimant Handbook reads in relevant part:

Gross earnings or gross wages are your earnings before taxes or other payroll deductions are made. Earnings or wages must be reported on the weekly claim during the week the wages are earned, not when the wages are paid. Earnings must be reported even if you have not received the payment.

Investigator II Daniel Noonan conducted an interview with claimant on January 19, 2021, to explore the wage reporting discrepancy. During this interview, claimant admitted that he failed to report his full commissions when filing his weekly continued claims for PUA benefits.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the Iowa Workforce Development decision dated January 19, 2021, (reference 02) that determined claimant was overpaid for federal Pandemic Unemployment Assistance (PUA) is affirmed. The administrative law judge finds claimant has been overpaid federal Pandemic Unemployment Assistance.

The CARES Act was established to provide PUA benefits to qualified individuals who were not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation. PL 116-136 Section 2102.

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

Payment — determination — duration — child support intercept.

#### **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.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

UIPL 16-20, Change 2 specifically addresses issues related to overpayment of Pandemic Unemployment Assistance. It provides in relevant part:

20. Question: May an overpayment of PUA benefits be waived if the individual was not at fault?

Answer: No. The provisions set out in 20 C.F.R. 625.14 apply with respect to PUA overpayments to the same extent and in the same manner as in the case of DUA. As described in 20 C.F.R. 625.14(e), there is no waiver provision for PUA overpayments, regardless of cause. Any overpayments must be recovered through offset of future benefits and the state's normal collection procedures. I-8

21. Question: May a state impose its 15 percent fraud penalty when an individual commits fraud on a PUA claim?

Answer: No. The provisions set out in 20 C.F.R. 625.14 apply with respect to PUA overpayments and fraud to the same extent and in the same manner as in the case of DUA. States may not apply their state penalties and disqualification periods to PUA overpayments. However, 20 C.F.R. 625.14(j) provides that applicable criminal prosecution and penalties are available.

Here, claimant has been found ineligible for federal Pandemic Unemployment Assistance by the administrative law judge. (See 21A-UI-00779-LJ-T) Therefore, he was not eligible for any weeks of federal PUA benefits. The administrative law judge concludes claimant has been overpaid PUA benefits in the total amount of \$19,000.00. Those benefits must be repaid.

Federal law does not permit a fifteen percent fraud penalty when an individual commits fraud on a PUA claim. Therefore, no penalty will be imposed.

**DECISION:**

The Iowa Workforce Development decision dated January 19, 2021 (reference 02) that determined claimant overpaid federal Pandemic Unemployment Assistance (PUA) is affirmed.



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Elizabeth A. Johnson  
Administrative Law Judge  
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April 7, 2021  
Decision Dated and Mailed

lj/kmj