

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

MARIAN AMMONS
Claimant

APPEAL 24A-UI-09138-DS-T
ADMINISTRATIVE LAW JUDGE
DECISION

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/12/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On October 23, 2024, the claimant filed an appeal from the unemployment insurance decision dated October 18, 2024, (Reference 07) that determined that the claimant was overpaid \$3,401.00 in unemployment insurance benefits for twenty weeks between April 12, 2020, and October 24, 2020. Notice of hearing was mailed to the parties' last known addresses of record for a telephone hearing to be held at 1:03 p.m. on November 12, 2024. The claimant participated personally. The Department participated through Mark Anderson, Investigator. Department Exhibits 1 and 2 were admitted to the record. The hearings in Appeal Nos. 24A-UI-09135 through 24A-UI-09139 were held together. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant overpaid \$2,658.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits for nineteen weeks between October 25, 2020, and April 10, 2021?
Is the claimant totally, partially or temporarily unemployed?
Did the claimant correctly report wages earned?
Is the claimant eligible for benefits based upon wages earned?
Were wages correctly deducted?

FINDINGS OF FACT:

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

The claimant filed an initial claim for unemployment insurance benefits with an original effective date of April 12, 2020. The claimant was laid off from work for approximately two months at the beginning of the COVID-19 pandemic. When making a weekly claim for benefits, claimants are instructed to report their gross wages to the Department. Throughout the claim, the claimant reported her net wages rather than her gross wages. As a result, the claimant's weekly wages reflected as significantly less than the gross wages she was required to report. This caused the claimant's weekly benefit payments to be more than she was entitled to receive.

The Department conducted an investigation which included an audit of the claimant's wage records. The claimant's employer provided the Department with a wage report showing her hours and earnings for all the weeks of the claim. (Department Exhibit 13-1, 14-1, and 15-1) The comparison between the wages the employer reported that the claimant earned and the wages that the claimant reported to the Department revealed that the claimant consistently reported significantly less wages than she earned. As a result, the claimant received benefits to which she was not entitled.

In addition to regular benefits through December of 2020, the Department determined that the claimant received \$2,658.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits for nineteen weeks between October 25, 2020, and April 10, 2021, to which she was not entitled. The Department imposed a penalty of fifteen percent due to misrepresentation of the claimant's wages.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is overpaid PEUC benefits because she did not accurately report her wages to the Department.

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.

Claimants are required to report their gross wages to Iowa Workforce Development as part of the weekly claim for the week in which the wages were earned. See Iowa Administrative Code Rules 871-24.2(1)(g)(3)(2) and 871-24.2(2)(e)(2).

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(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; ...

Iowa Admin. Code rule 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 deduction 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.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

This Administrative Law Judge does not find credible the claimant's assertion that she did not file any weekly claims after August of 2020. The claimant testified that she believed the Governor of Iowa had canceled the benefit programs and that she would be prevented from receiving additional benefits, so she quit filing. The bank records produced by the Department indicate that nothing substantially changed in the way the claimant was using the benefits at any point during the benefit year. Rather, it is evident that the claimant returned to work and simply entered a generic dollar figure for earnings until such time as her benefits were exhausted. This constitutes misrepresentation and the claimant was consequently overpaid. The Department rightly imposed the administrative penalty for misrepresentation, as the claimant did not properly report her wages once she returned to work.

The claimant received \$2,658.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits for nineteen weeks between October 25, 2020, and April 10, 2021, to which she was not entitled. The claimant is overpaid those benefits and must repay those benefits and the administrative penalty.

DECISION:

The October 18, 2024, (Reference 07) unemployment insurance decision is AFFIRMED. The claimant is overpaid \$2,658.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits for nineteen weeks between October 25, 2020, and April 10, 2021, and must repay those benefits.



David J. Steen
Administrative Law Judge
Iowa Department of Inspections, Appeals & Licensing
Administrative Hearings Division - UI Appeals Bureau

November 20, 2024
Decision Dated and Mailed

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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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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.