

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROBERT A WEHR**  
Claimant

**APPEAL 22A-UI-03288-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 04/26/20**  
**Claimant: Appellant (4R)**

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PL 116-136 Section 2104(f)(2) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

On January 21, 2022, Robert Wehr (claimant/appellant) filed an appeal from the Iowa Workforce Development (“IWD”) decision dated January 11, 2022 (reference 05) that denied claimant’s request that a Federal Pandemic Unemployment Compensation (FPUC) overpayment be waived.

A telephone hearing was initially set for March 3, 2022 at 3 p.m. Claimant requested the hearing be rescheduled due to his being unavailable at that date and time and indicated he was available after March 28, 2022. The reschedule request was granted and a hearing was set for March 29, 2022 at 11 a.m. A hearing was held at that time. The claimant participated personally and with his son, Jeff Wehr. Official notice was taken of the administrative record.

**ISSUE:**

Should the FPUC overpayment be waived?

**FINDINGS OF FACT:**

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

Claimant filed an original claim for regular unemployment insurance benefits funded by the State of Iowa (UI) effective April 26, 2020. He received UI in the amount of \$131.00 per week from the benefit week ending May 2, 2020 and continuing through the benefit week ending June 20, 2020. The claimant was paid FPUC in the amount of \$600.00 per week from the week ending May 2, 2020 and continuing through the week ending June 20, 2020.

Claimant was subsequently found to be ineligible for UI from the benefit week ending April 26, 2020 and continuing through the benefit week ending August 1, 2020. See 20A-UI-07608-JE-T. That decision remains in force.

Claimant was in turn found to have been overpaid FPUC from the week ending April 26, 2020 and continuing through the week ending June 20, 2020. The total FPUC overpayment was found to be \$4,800.00. Claimant appealed that determination and it was affirmed in 21A-UI-10552-JT-

T. That decision remains in force. He was also found to be overpaid UI in the amount of \$1,048.00. See 21A-UI-10551-JT-T.

Claimant later filed an application for Pandemic Unemployment Assistance (PUA). A decision was issued on or about December 13, 2021, which allowed PUA in the amount of \$203.00 per week effective April 26, 2020 and continuing through June 12, 2021. The administrative record reflects that no PUA or related FPUC payments have issued to date. As such, it appears claimant is due PUA in the amount of \$1,624.00 and related FPUC in the amount of \$4,800.00.

Claimant subsequently filed an application for waiver of the FPUC overpayment. That request was denied in a decision dated January 11, 2022. FPUC was initially paid to the claimant because no initial determination finding the claimant was not eligible had been made at that time. The overpayment was not the result of fraud or misrepresentation. Claimant used the funds to pay basic expenses. His monthly expenses typically exceed his income and he does not have substantial savings or other sources with which to pay the overpayment.

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

For the reasons that follow, the decision dated January 11, 2022 (reference 05) that denied claimant's request that a Federal Pandemic Unemployment Compensation (FPUC) overpayment be waived is MODIFIED in favor of appellant.

PL 116-136 Section 2104 of the CARES Act created a program in which an additional \$600.00 per week was payable to claimants who were eligible for at least \$1.00 per week in benefits stemming from other programs including regular unemployment insurance funded by the State of Iowa, Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, Iowa Extended benefits, and Trade Act benefits. This initial program ran from March 29, 2020 through July 25, 2020. The FPUC payments were automatically paid in each week in which the claimant was determined to be eligible under one of the other applicable programs.

The FPUC program was subsequently reauthorized effective December 26, 2020 and continuing through September 6, 2021. The weekly supplemental payment in those weeks was reduced to \$300.00. See Continued Assistance Act and American Rescue Plan Act. Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the FPUC program, effective June 12, 2021. The last payable week for FPUC benefits in Iowa was the week ending June 12, 2021. The CARES Act provides that a State agency may waive repayment of an overpayment in certain circumstances.

PL 116-136, Sec. 2104(f)2 provides:

#### **EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.**

(f) 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 Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual –

(A) Shall be ineligible for further Federal Pandemic Unemployment Compensation 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 Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amount of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that –
- (A) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual and;
  - (B) such repayment would be contrary to equity and good conscience.

In determining whether the payment of FPUC benefits was without fault on the part of the claimant, several factors are relevant. Those factors include:

- Whether a material statement or representation was made by the claimant in connection with the application for benefits and whether the claimant knew or should have known that the statement was inaccurate.
- Whether the claimant failed or caused another to fail to disclose a material fact in connection with the application for benefits that resulted in the overpayment and whether the claimant knew or should have known that the fact was material.
- Whether the claimant knew or could have been expected to know that they were not entitled to the compensation payment.
- Whether the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the claimant or of which the claimant had knowledge and which was erroneous or inaccurate or otherwise wrong.

*Cf.* Iowa Admin. Code r. 871-24.50(7)(factors for waiver of temporary extended unemployment compensation).

In deciding whether repayment would be contrary to equity and good conscience, several factors are relevant. Those factors include:

- Whether repayment would cause financial hardship to the person for whom it is sought.
- Whether the recipient of the overpayment can show (regardless of their financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either they have relinquished a valuable right or changed positions for the worse.
- Whether recovery would be unconscionable under the circumstances.

See UIPL No. 20-21(4)d. Other factors which may be relevant include whether the overpayment was the result of a decision on appeal; whether the state agency had given notice to the claimant that they may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal; and whether recovery of the overpayment will cause financial hardship to the claimant. *Cf.* Iowa Admin. Code r. 871-24.50(7)(factors for waiver of temporary extended unemployment compensation).

The claimant was initially paid FPUC due to their initial eligibility for UI, However, the claimant was later determined to be ineligible for those benefits. The overpayment was not the result of fraud or misrepresentation or otherwise the fault of claimant. Further, based upon the claimant's

financial circumstances, recovery of the overpayment would cause a financial hardship to the claimant. Waiver in these circumstances is appropriate.

However, it appears claimant is due PUA in the amount of \$1,624.00 and related FPUC in the amount of \$4,800.00. If the FPUC overpayment related to his receipt of UI was waived and the FPUC related to his eligibility for PUA was also paid out, he would in essence receive FPUC twice for the same period. Such a double payment is not permissible.

As such, the administrative law judge remands this matter to IWD for issuance of the PUA and FPUC payments due claimant. IWD may use those funds to offset the UI and related FPUC overpayment amounts to the extent allowed by law. If the amount of FPUC due claimant and related to his eligibility for PUA is less than the FPUC overpayment amount of \$4,800.00, the remaining FPUC overpayment amount is waived for the reasons set forth above.

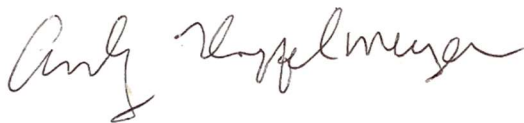
At the end of the day, claimant should actually end up with a greater amount of benefits during the period in question through the payment of PUA and related FPUC than with UI and related FPUC, as the PUA weekly benefit amount is higher (\$203.00) than the UI weekly benefit amount (\$131.00).

**DECISION:**

The decision dated January 11, 2022 (reference 05) that denied claimant's request that a Federal Pandemic Unemployment Compensation (FPUC) overpayment be waived is MODIFIED in favor of appellant. The FPUC overpayment is waived to the extent the FPUC due claimant and related to his eligibility for PUA is less than the FPUC overpayment amount of \$4,800.00.

**REMAND:**

The administrative law judge remands this matter to IWD for issuance of the PUA and FPUC payments due claimant. IWD may use those funds to offset the UI and related FPUC overpayment amounts to the extent allowed by law.



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Andrew B. Duffelmeyer  
Administrative Law Judge

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April 4, 2022  
Decision Dated and Mailed

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