

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENISE BEEMAN
Claimant

APPEAL 21A-UI-21036-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/12/20
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

On September 23, 2021, Denise Beeman (claimant/appellant) filed a timely appeal from the decision dated September 13, 2021 (reference 08) that denied claimant's request that a Federal Pandemic Unemployment Compensation (FPUC) overpayment in the amount of \$6,000.00 be waived.

The claimant was properly notified of the hearing. A telephone hearing was held on November 12, 2021. The claimant participated by her husband, Brad Beeman. Claimant granted power of attorney to her husband in order for him to participate on her behalf.

Claimant's Exhibit 1 was admitted. 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 effective April 12, 2020. The claimant was paid FPUC in the amount of \$600.00 per week based on receipt of unemployment insurance benefits. Claimant was paid this amount for a total of ten weeks, from the benefit week ending April 18, 2020 and continuing through the week ending June 20, 2020. The total amount of FPUC paid during that period is \$6,000.00.

Claimant was subsequently found to be ineligible for benefits during that period in a decision dated July 13, 2020 (reference 01). See 20A-UI-05351-S1-T. That decision remains in force. Claimant was in turn found to have been overpaid FPUC in the amount of \$6,000.00.

FPUC was initially paid to the claimant because no initial determination finding the claimant was ineligible had been made at that time. There has been no finding that the overpayment was the result of fraud or misrepresentation. The overpayment was due to no fault of claimant.

Claimant used the benefits received to pay for necessary living expenses, including food and shelter. Claimant's yearly income is typically between \$17,000 and \$20,000.00. Claimant's husband is unable to work and receives Social Security each month. Claimant does not have substantial savings with which to pay back the overpayment.

The administrative law judge notes that claimant was subsequently found eligible for federal Pandemic Unemployment Assistance (PUA) effective April 12, 2020. It does not appear that PUA has been paid to claimant for the weeks from April 12, 2020 through June 20, 2020.

REASONING AND CONCLUSIONS OF LAW:

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

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).


For the reasons set forth above, the administrative law judge finds overpayment was not the fault of claimant and requiring repayment would be contrary to equity and good conscience. As such, the claimant's overpayment amount of \$6,000.00 in FPUC shall be waived, and claimant has no obligation to pay back the FPUC amounts received.

DECISION:

The decision dated September 13, 2021 (reference 08) that denied claimant's request that a Federal Pandemic Unemployment Compensation (FPUC) overpayment in the amount of \$6,000.00 be waived is REVERSED. The FPUC overpayment in the amount of \$6,000.00 is waived in its entirety. The claimant has no obligation to pay back the FPUC payments received.

REMAND:

The administrative law judge notes that claimant was found eligible for federal Pandemic Unemployment Assistance (PUA) effective April 12, 2020. It does not appear that PUA has been paid to claimant for the weeks from April 12, 2020 through June 20, 2020. This matter is REMANDED to the Department for issuance of any payments due to claimant which have not yet been issued.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

December 14, 2021
Decision Dated and Mailed

abd/mh