



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: SEPTEMBER 14, 2021

IN THE MATTER OF:

Appeal Board No. 617642

PRESENT: MARILYN P. O'MARA, MEMBER

The Department of Labor issued the initial determination charging the claimant with an overpayment of \$1,200 in Federal Pandemic Unemployment Compensation (FPUC) repayable pursuant to § 2104 (f) (2) of the Coronavirus Aid, Relief,

and Economic Security (CARES) Act of 2020. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant. By decision filed July 16, 2021 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board.

Our review of the record reveals that the case should be remanded to hold a hearing. Due to an incomplete recording of the hearing, the Board is unable to review the entire record because a complete transcript cannot be prepared.

Further, on appeal, the claimant indicated that additional testimony and other evidence should be submitted. The Board has determined to provide the claimant another opportunity to submit such additional testimony and other evidence.

At the remand hearing, the Judge shall take further testimony from the claimant regarding whether he received two \$600 FPUC payments for each of the weeks ending April 19, 2020 and May 3, 2020. The Judge shall enter into the record the claimant's bank records, encompassing the entire three months of April, May, and June 2020, showing payments from the Department of Labor.

Additionally, the Judge shall properly enter into the record as an exhibit the Department of Labor's benefit ledger transcript.

The parties may also produce any other relevant witnesses or documents. The Judge may also take any other and further evidence as may be deemed necessary to decide the case.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue of FPUC overpayments, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue of FPUC overpayments, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MARILYN P. O'MARA, MEMBER