

Cite as 2023 Ark. App. 260
ARKANSAS COURT OF APPEALS
DIVISION III
No. E-22-173

MARY MEADOUGH

APPELLANT

V.

DIRECTOR, DIVISION OF
WORKFORCE SERVICES

APPELLEE

Opinion Delivered May 3, 2023

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW
[NO. 2021-BR-04837]

AFFIRMED IN PART; REMANDED IN
PART

CINDY GRACE THYER, Judge

Mary Meadough (“Meadough”) appeals to this court, challenging the Arkansas Board of Review’s (“Board’s”) decision requiring her to repay unemployment-compensation benefits she previously received in the amount of \$5,510. We affirm in part and remand in part.

I. Background and Procedural History

The record indicates that Meadough received \$81 in weekly state unemployment benefits between April 4 and May 30, 2020, for a total of \$729. In addition, Meadough received \$600 in weekly Federal Pandemic Unemployment Compensation (“FPUC”) between April 4 and May 30, 2020, for a total of \$5,400. The record also contains a notice of agency determination dated July 7, 2021, that found Meadough had incorrectly reported earnings during the weeks of April 4 through May 30, 2020, while filing continuing

unemployment-benefits claims. This determination was issued as a result of a wage audit. A “Notice of Nonfraud Overpayment Determination” dated August 13, 2021, found that, due to her failure to correctly report her earnings, Meadough was required to repay \$5,448 for the entirety of benefits received the weeks of April 4 through May 23, 2020, and \$62 for a partial repayment of benefits received the week of May 30, 2020. Meadough does not dispute the wages reported as a result of the audit or the amount of benefits she received during the time in question. We only address the issue of repayment.

II. *Standard of Review*

Board decisions are upheld if they are supported by substantial evidence. *Blanton v. Dir.*, 2019 Ark. App. 205, 575 S.W.3d 186. Substantial evidence is such relevant evidence that reasonable minds might accept as adequate to support a conclusion. *Id.* In appeals of unemployment-compensation cases, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Board’s findings. *Id.* Even if there is evidence that could support a different decision, our review is limited to whether the Board could have reasonably reached its decision as a result of the evidence presented. *Id.* However, our function on appeal is not merely to rubber-stamp decisions arising from the Board. *Thomas v. Dir.*, 2019 Ark. App. 468, 587 S.W.3d 612; *Wilson v. Dir.*, 2017 Ark. App. 171, 517 S.W.3d 427.

III. *Analysis*

This court’s recent decision in *Carman v. Director*, 2023 Ark. App. 51, 660 S.W.3d 852, confirmed that, for purposes of overpayment of state unemployment benefits, the

repayment may be waived “if the director finds that the overpayment was received as a direct result of an error by the Division of Workforce Services and that its recovery would be against equity and good conscience.” *Carman*, 2023 Ark. App. 51, at 7, 660 S.W.3d at 857 (quoting Ark. Code Ann. § 11-10-532(b)(2)(A) (Supp. 2021)). *Carman* also holds that FPUC repayment may be waived if the state determines that the payment of the FPUC was without fault on the part of the individual and that such repayment would be contrary to equity and good conscience. *Id.* at 8, 660 S.W.3d at 857 (citing 15 U.S.C. § 9023(f)(2)).

In the present case, the Board found that the overpayment of benefits was a result of Meadough’s misreporting of weekly earnings, not agency error. We hold that there is substantial evidence to support the Board’s findings. Because Meadough fails to satisfy the first prong of her state unemployment-waiver analysis, we affirm the decision requiring Meadough to repay \$648 in state unemployment benefits she received from April 4 through May 23, 2020.

However, the Board failed to make any findings regarding the two prongs of the FPUC-waiver analysis outlined in *Carman*. If adequate findings of fact are not made on the issue presented, we remand to the Board for findings of fact and conclusions of law upon which to perform proper appellate review. *Pillow v. Dir.*, 2022 Ark. App. 341, at 4. We therefore remand to the Board for findings of fact and conclusions of law, utilizing the FPUC-waiver analysis prongs, regarding repayment of the \$4,800 in FPUC benefits Meadough received from April 4 through May 23, 2020.

The Board also affirmed partial repayment of benefits Meadough received the week of May 30, 2020. Specifically, it found that she must repay \$62 of the \$681 she received in benefits that week. The record, however, does not specify how the \$62 is apportioned between state unemployment benefits and FPUC benefits. On remand, the Board shall identify how much of the \$62 is attributed to state benefits, identify how much is attributed to FPUC benefits, and make findings in accordance with the required factors for repayment-waiver analysis.

Affirmed in part; remanded in part.

VIRDEN and HIXSON, JJ., agree.

Mary Ann Meadough, pro se appellant.

Cynthia L. Uhrynawycz, Associate General Counsel, for appellee.