

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRISHA SCHNEIDER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-DUA-00973-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/04/20
Claimant: Appellant (2)**

Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing
PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

Trisha Schneider, the claimant/appellant, filed an appeal from the Iowa Workforce Development decision dated October 16, 2020 that determined she was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Ms. Schneider was properly notified of the hearing. A telephone hearing was held on January 7, 2021, at 10:00 a.m. Ms. Schneider participated and testified. Shannon Smith, Ms. Schneider's mother-in-law testified on her behalf. Official notice was taken of the administrative record.

ISSUES:

Did Ms. Schneider file her appeal on time?
Is Ms. Schneider eligible for PUA benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Schneider at the correct address on October 16, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by October 29, 2020. Ms. Schneider did not receive the decision. Ms. Schneider and her mother-in-law contacted Iowa Workforce Development several times to inquire about the decision. Ms. Schneider was confused by the variety of seemingly conflicting information she received about her PUA claim and her regular unemployment insurance benefits claim. Ms. Schneider filed her appeal via email on November 17, 2020. The appeal was received by Iowa Workforce Development on November 17, 2020.

The administrative law judge further finds: Ms. Schneider worked at Central Falls Health Care Center as a dietary aide until April 2019. At that time, she was pregnant and she was sick. The employer scheduled Ms. Schneider on an as-needed basis, which reduced her work hours.

In January 2020, Ms. Schneider gave birth to her baby. Her doctor released her to be able to work again on March 10, 2020. Ms. Schneider requires childcare in order to attend work. Ms. Schneider was unable to secure childcare. She learned through word of mouth that nearly all of the daycares in her area were either closed or not accepting new children due to the COVID-19 pandemic. Ms. Schneider is not eligible for regular UI benefits.

In May 2020, Ms. Schneider self-quarantined due to being exposed to others who had tested positive for COVID-19. Ms. Schneider and her son tested negative for COVID-19.

Ms. Schneider had a job cleaning one house scheduled to begin on June 30. Ms. Schneider expected to work 4-5 hours per week and earn \$12 per hour. Due to the pandemic, the job was cancelled.

Ms. Schneider has not had symptoms of Covid-19. No one in her household has been diagnosed with Covid-19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant's appeal was filed on time.

Iowa Code § 96.6(2) provides, in pertinent part: "[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision."

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

- (a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

- (b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

- (c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Ms. Schneider did not receive the decision in the mail and, therefore, could not file an appeal prior to the appeal deadline. The notice provision of the decision was invalid. Ms. Schneider and her mother-in-law contacted Iowa Workforce Development several times. Despite their efforts, both Ms. Schneider and her mother-in-law were confused. Finally, Ms. Schneider filed her appeal on November 17. The first line of her appeal states: "I am really confused as to what happened with my claim." While claimant's appeal was submitted after the deadline, claimant's delay was due to division error. Thus, claimant's appeal is considered filed on time.

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

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, Sec. 2102 provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19.

The issue to be determined here is whether claimant is a "covered individual" who is eligible to receive benefits within the meaning of applicable law.

Section 2102 of the CARES Act describes a covered individual as follows:

(3) COVERED INDIVIDUAL.—The term "covered individual"—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;

(ii) the individual has to quit his or her job as a direct result of COVID-19;

(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(ll) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (l); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(I).

In this case, Ms. Schneider made a good faith effort to find childcare in order to work. However, nearly all of the daycares in her area were closed to her child as a direct result of Covid-19. Therefore, Ms. Schneider meets the eligibility requirements of subparagraph (dd).

Accordingly, Ms. Schneider is eligible for PUA benefits effective October 4, 2020, which is the effective date of her claim.

DECISION:

Ms. Schneider's appeal was filed on time. The Iowa Workforce Development decision dated October 16, 2020 that determined she was not eligible for Pandemic Unemployment Assistance (PUA) benefits is reversed. Ms. Schneider is eligible for PUA benefits effective October 4, 2020 pursuant to subparagraph (dd).



Daniel Zeno
Administrative Law Judge
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January 26, 2021
Decision Dated and Mailed

dz/scn