

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KAREN HINCAPIE**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 22A-UI-04021-AW-T  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20  
Claimant: Appellant (1R)**

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Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Admin. Code r. 871-24.35 – Filing  
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the July 21, 2021 (reference 03) unemployment insurance decision that found claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on March 17, 2022. Claimant participated. Spanish language translation was provided by Eric (ID 14115) of CTS Language Link. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant filed a timely appeal.  
Whether claimant was overpaid FPUC benefits.

**FINDINGS OF FACT:**

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

On July 21, 2021, Iowa Workforce Development (IWD) issued a decision (reference 03) which found claimant was overpaid FPUC in the gross amount of \$3,600.00 for the six-week period between April 5, 2020 and May 16, 2020 because she was not eligible for unemployment insurance (UI) benefits.

The decision was mailed to claimant at the correct address on July 21, 2021. Claimant received the decision. The decision states that it becomes final unless an appeal is postmarked or received by IWD's Appeals Section by July 31, 2021. Claimant did not appeal the decision.

Claimant appealed a subsequent decision that withheld her state income tax refund online on January 6, 2022. IWD received the appeal on January 6, 2022 and applied it to all adverse decisions including the FPUC overpayment decision. Claimant gave no reason for not appealing the overpayment decision.

On March 18, 2022, IWD issued a decision granting claimant Pandemic Unemployment Assistance (PUA) benefits effective April 5, 2020. Claimant has not received FPUC benefits based upon her eligibility for PUA.

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

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

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). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion? *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

Claimant received the decision but did not appeal the decision until after the deadline. Claimant's delay was not due to agency error or misinformation or delay of the United States Postal Service. The appeal was not timely. Therefore, the administrative law judge lacks

jurisdiction to make a determination with respect to the nature of the appeal. The FPUC overpayment decision remains in effect.

IWD Benefits Bureau should determine whether claimant is eligible for FPUC based upon her eligibility for PUA.

**DECISION:**

Claimant's appeal was not timely. The administrative law judge has no authority to change the decision of the representative. The July 21, 2021 (reference 03) unemployment insurance decision is affirmed.

**REMAND:**

The issue of whether claimant is eligible for FPUC benefits based upon her eligibility for PUA is remanded to the Benefits Bureau of Iowa Workforce Development for review.



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

March 25, 2022  
Decision Dated and Mailed

acw/ACW

**NOTE TO CLAIMANT:** This decision determines you have been overpaid benefits under the CARES Act. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Additionally, instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.