

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

TENESHIA R TAGGART
Claimant

APPEAL 23A-UCFE-00013-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/08/20
Claimant: Respondent (1)**

Iowa Code § 96.6(2) – Timely Appeal
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Teneshia R. Taggart, the claimant/appellant,¹ filed an appeal from the Iowa Workforce Development April 11, 2023 (reference 04) unemployment insurance (UI) decision. The decision denied Ms. Taggart's application to waive a Lost Wage Assistance Payment (LWAP) benefit overpayment in the total gross amount of \$1,800.00, a Pandemic Emergency Unemployment Compensation (PEUC) benefit overpayment in the total gross amount of \$6,114.00,² and a Federal Pandemic Unemployment Compensation (FPUC) benefit overpayment in the gross amount of \$10,800.00 because IWD concluded that Ms. Taggart did not properly report her wages when she was filing her weekly UI claims. The Iowa Department of Inspections and Appeals (DIA) UI Appeals Bureau mailed a notice of hearing to Ms. Taggart. The undersigned held a telephone hearing on May 17, 2023. Ms. Taggart participated personally. The undersigned took official notice of the administrative record and admitted Claimant's Exhibit A-C as evidence.

ISSUES:

Did Ms. Taggart file her appeal on time?
Should Ms. Taggart's LWAP, PEUC and/or FPUC overpayments be waived?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the undersigned finds: IWD mailed the April 11, 2023, (reference 04) UI decision to Ms. Taggart at the correct address on April 11, 2023. The UI decision states that it becomes final unless an appeal is postmarked or received by the IWD Appeals Section by April 21, 2023.

Ms. Taggart received the decision in the mail on, or about, the evening of April 18, 2023. Ms. Taggart called IWD the day after she received the decision, and the IWD representative told Ms.

¹ Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

² This amount, \$6,114.00, is inaccurate and appears to be an error by IWD. The April 14, 2022 (reference 02) UI decision that finds IWD overpaid Ms. Taggart PEUC benefits lists the PEUC benefit overpayment amount as \$6,105.00. The amount in the reference 02 UI decision matches the information on IWD's DBIN screens.

Taggart that she could file an appeal. The decision stated that Ms. Taggart's combined total overpayment balance is \$19,784.35. Ms. Taggart was overwhelmed by the almost \$20,000.00 overpayment she owed to IWD, and she felt frustrated and hurt because she had done what she thought she was supposed to do when she filed her UI claim and weekly claims. About one-and-a-half weeks later, on May 1, 2023, Ms. Taggart decided that she wanted to appeal. Ms. Taggart filed an appeal online about. The DIA UI Appeals Bureau received the appeal on May 1, 2023.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Ms. Taggart did not file her appeal of the April 11, 2023 (reference 04) UI decision 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:

2. 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:

(2) 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 undersigned has no authority to change the decision of a representative if a timely appeal is not filed.³ Compliance


³ *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979).

with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid.⁴

Ms. Taggart received the April 11, 2023 (reference 04) UI decision before the appeal deadline and, therefore, could have filed an appeal by the deadline. The notice provision of the decision was valid. Ms. Taggart's delay in filing her appeal was not due to an error or misinformation from IWD or due to delay or other action of the United States Postal Service. Ms. Taggart has not established any other good cause reason for the delay in filing her appeal. Ms. Taggart did not file her appeal of the April 11, 2023 (reference 04) UI decision on time and the undersigned lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

Ms. Taggart did not file her appeal of the April 11, 2023 (reference 04) UI decision on time. The April 11, 2023 (reference 04) UI decision denying Ms. Taggart's application to waive the LWAP, PEUC and/or FPUC overpayments is AFFIRMED.



Daniel Zeno
Administrative Law Judge

May 18, 2023
Decision Dated and Mailed

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⁴ *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).

NOTE TO MS. TAGGART:

- If the reason you were unemployed from March 8, 2020, when you filed your initial UI claim, through June 12, 2021 was because of the COVID-19 pandemic, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.**
- You may apply for PUA benefits online. Here are the steps to do so:
 - First go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals>
 - Go to the "WHAT TO EXPECT FROM THE HEARING" section.
 - Go to the last two sentences in that section.
 - The PUA application link is at the end of the second-to-last sentence of the section.
 - The reference number/authorization number is the pin number you used for the appeal hearing: 100013.

- You may contact IWD for help applying for PUA benefits. You may call IWD or go to the IWD Des Moines office. The address and telephone number for the Des Moines office is:

200 Army Post Road
Des Moines IA 50315
Telephone: 515-281-9619

- **If IWD finds you eligible for federal PUA benefits:**
 - **you can use the PUA benefits to pay off the REGULAR (state) UI overpayment, State Extended Benefit overpayment and/or PEUC overpayment you owe to IWD, and**
 - **you would then be eligible for FPUC benefits and LWAP benefits, but only during the time you're eligible for PUA benefits.**
- **If you do not apply for and/or IWD does not approve you for PUA benefits:**
 - **you may be required to repay the UI benefits you've received so far.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **But you can still apply for PUA benefits at the link above if you were unemployed because of the COVID-19 pandemic between March 8, 2020, and June 12, 2021.**
- To check on your PUA application contact IWD by phone, email, or online.
 - Phone: 1-866-239-0843
 - Email: uicclaimshelp@iwd.iowa.gov
 - Online: Go to www.iowaworkforcedevelopment.gov, click on "Contact Us" then click on "Unemployment Help Request" and complete the form.

APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.