

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHRISTOPHER M YOUNG**  
Claimant

**ARONA CORPORATION**  
Employer

**APPEAL 21A-UI-00489-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/13/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(5)b – Workers’ Compensation/Temporary Total Disability Benefits  
Iowa Admin. Code r. 871-24.13(3)d – Workers’ Compensation/TTD Benefits  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On December 9, 2020, Christopher M. Young (claimant) filed an appeal from the November 24, 2020, reference 06, unemployment insurance decision that denied benefits because he was receiving deductible workers’ compensation benefits. After due notice was issued, a telephone hearing was held on February 8, 2021 and consolidated with the hearing for appeal 21A-UI-00488-SC-T. The claimant participated. The employer’s witness did not answer when called at the phone number provided. The department’s Exhibits D1 through D3 were admitted into the record. The administrative record, specifically the fact-finding documents, were not available at the time of the hearing.

**ISSUES:**

Is the claimant’s appeal timely?

Is the claimant eligible for unemployment insurance benefits while receiving temporary total disability workers’ compensation benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the claimant’s address of record on November 24, 2020. The decision contained a warning that an appeal needed to be filed by December 4. The claimant did not receive the decision until December 8. The appeal was sent within ten days after receipt of that decision.

The claimant separated from employment on or about September 13, 2020, due to an injury. He filed for workers’ compensation benefits, but only received a payout related to mileage. He denied receiving any temporary total disability (TTD) payments.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal was timely and he did not receive deductible TTD payments. Benefits are allowed, if he meets all other eligibility requirements.

### *I. Is the claimant's appeal timely?*

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless 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(2) provides:

Date of submission and extension of time for payments and notices.

(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.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The claimant did not have an opportunity to appeal the unemployment insurance decision because the decision was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec.*

*Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed the appeal within ten days of receipt. Therefore, the appeal shall be accepted as timely.

*II. Is the claimant eligible for unemployment insurance benefits while receiving temporary total disability workers' compensation benefits?*

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

...

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contributions to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Admin. Code r. 871-24.13(3)d provides:

Deductible and nondeductible payments.

(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

d. Workers' compensation, temporary disability only. The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which such payment is paid.

The claimant's unrefuted testimony is that he did not receive any TTD payments from workers' compensation. Therefore, he has not received income that would be deducted from his unemployment insurance benefits. Benefits are allowed, if he meets all other eligibility requirements.

**DECISION:**

The claimant's appeal is timely. The November 24, 2020, reference 06, unemployment insurance decision is reversed. The claimant has not received TTD payments that are deductible from his benefits. Benefits are allowed, if he meets all other eligibility requirements.



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Stephanie R. Callahan  
Administrative Law Judge

February 19, 2021  
Decision Dated and Mailed

src/kmj