

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**SHARIL J PLATE**  
Claimant

**APPEAL NO. 10A-UI-01547-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Original Claim: 11-23-08  
Claimant: Appellant (1)**

Public Law 110-252, Title IV – Emergency Unemployment Compensation  
Iowa Code Section 96.19(20) – Definition of an Exhaustee  
Iowa Code § 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 7, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 13, 2010. The claimant did not participate.

**ISSUES:**

Whether claimant filed a timely appeal?

Whether the claimant is eligible for extended unemployment compensation (EUC) effective November 22, 2009?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's address of record on January 7, 2010. The claimant did not receive the decision. The first notice of disqualification was the overpayment decision of January 20, 2010. The appeal was sent immediately after receipt of that decision.

The claimant filed a claim in Iowa for extended unemployment insurance benefits. The claimant was eligible for regular unemployment insurance benefits in the state of Iowa at the time she filed her claim for extended benefits. She is currently receiving unemployment insurance benefits from the state of Iowa on her regular claim. The claimant was deemed monetarily eligible to receive regular unemployment insurance benefits in the state of Iowa effective November 22, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant timely appealed the overpayment decision, which was the first notice of disqualification. Therefore, the appeal shall be accepted as timely.

The Emergency Unemployment compensation (EUC) program was created by Public Law 110-252, Title VI. This new temporary unemployment insurance program provides up to 13 additional weeks of unemployment benefits to certain workers who have exhausted their right to regular unemployment compensation benefits.

In order to receive extended unemployment insurance benefits (EUC), a person must be an "exhaustee" within the meaning of unemployment insurance law. Pursuant to Iowa Code section 96.19(20), a person is not an "exhaustee" if she is monetarily eligible for regular unemployment insurance benefits in Iowa or another state.

Because the claimant was deemed monetarily eligible for regular unemployment insurance benefits in Iowa effective November 22, 2009, she does not meet the definition of an "exhaustee" for purposes of receiving extended unemployment compensation benefits in Iowa.

**DECISION:**

The January 7, 2010, reference 01, decision is affirmed. The claimant is not eligible to receive extended benefits in Iowa effective November 22, 2009, because she was monetarily eligible for regular unemployment insurance benefits in Iowa. The claimant's appeal was timely.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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