

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRYAN TIU AJPACAJA
Claimant

APPEAL 21A-UI-03503-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/22/20
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

Bryan Tiu Ajpacaja, the claimant/appellant filed an appeal from the December 8, 2020, (reference 03) unemployment insurance decision that concluded he was overpaid regular unemployment insurance (UI) benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 26, 2021. Mr. Ajpacaja participated and testified. Olza Ajpacaja, Mr. Ajpacaja's mother, testified on his behalf. Official notice was taken of the administrative record.

ISSUE:

Has Mr. Ajpacaja been overpaid regular unemployment insurance (UI) benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Mr. Tiu Ajpacaja at the correct address on December 8, 2020. The decision states that Mr. Tiu Ajpacaja was overpaid regular unemployment insurance (UI) benefits in the amount of \$5,061.00 for 14 weeks from March 22, 2020 through June 27, 2020 because of the Iowa Workforce Development decision dated December 7, 2020, which disqualified him for benefits. There is no Iowa Workforce Development decision dated December 7, 2020 related to Mr. Tiu Ajpacaja.

The December 8, 2020 decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by December 18, 2020. Mr. Tiu Ajpacaja received the decision in the mail on, or about, January 19, 2021. Mr. Tiu Ajpacaja appealed the decision online on January 19, 2021. The appeal was received by Iowa Workforce Development on January 19, 2021.

The administrative law judge further finds: Mr. Tiu Ajpacaja received regular UI benefits in the amount of \$5,061.00 for 14 weeks between March 22, 2020 and June 27, 2020.

On July 2, 2020, Iowa Workforce Development issued a reference 02 decision denying Mr. Tiu Ajpacaja regular UI benefits from March 22, 2020 through April 4, 2020. That decision was affirmed by the administrative law judge's decision in Appeal 21A-UI-03502.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that Mr. Tiu Ajpacaja's appeal of the December 8, 2020 decision 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).

Mr. Tiu Ajpacaja did not receive the decision in the mail before the appeal deadline. The notice provision of the decision was invalid. Mr. Tiu Ajpacaja's delay in filing her appeal was due to action of the United States Postal Service. Mr. Tiu Ajpacaja's appeal was filed on time.

The administrative law judge further concludes Mr. Tiu Ajpacaja was overpaid regular UI benefits in the amount of \$597.00 for two weeks from March 22, 2020 through April 4, 2020.

Iowa Code §96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The July 2, 2020 decision disqualified Mr. Tiu Ajpacaja from benefits from March 22, 2020 through April 4, 2020. No other Iowa Workforce Development decision disqualifies Mr. Tiu Ajpacaja from benefits. Therefore, the administrative law judge concludes that Mr. Tiu Ajpacaja has been overpaid regular UI benefits in the amount of \$597.00 for two weeks between March 22, 2020 and April 4, 2020 since he was not qualified and/or eligible to receive regular UI benefits per the July 2, 2020 Iowa Workforce Development decision.

DECISION:

Mr. Tiu Ajpacaja's appeal was filed on time. The December 8, 2020, (reference 03) unemployment insurance decision is modified in favor of the appellant, Mr. Tiu Ajpacaja. Mr. Tiu Ajpacaja has been overpaid regular UI benefits in the amount of \$597.00.



Daniel Zeno
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March 29, 2021
Decision Dated and Mailed

dz/scn