

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ISIAH A LEWIS
Claimant

APPEAL 21A-DUA-01389-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/17/20
Claimant: Appellant (4)

Iowa Code § 96.6(2) – Timely Appeal
PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

Isiah A Lewis, the claimant/appellant, filed an appeal from the Iowa Workforce Development decision dated April 16, 2021 that determined he was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Mr. Lewis was properly notified of the hearing. A telephone hearing was held on June 9, 2021. Mr. Lewis participated and testified. Official notice was taken of the administrative record.

ISSUES:

Is Mr. Lewis' appeal filed on time?
Is Mr. Lewis eligible for Pandemic Unemployment Assistance benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Mr. Lewis at the correct address on April 16, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by April 29, 2021. Mr. Lewis received the decision in the mail. Mr. Lewis filed an appeal online on March 30, 2021. The appeal was received by Iowa Workforce Development on March 30, 2021.

The administrative law judge further finds: Mr. Lewis was employed at Advance Services Inc as a production worker. In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. Mr. Lewis quit his job at Advance Services Inc on April 12, 2020. From May 2020 through August 2020, Mr. Lewis worked at Treasures Marbury Lawn Care Service.

Mr. Lewis is the parent of a child, age 4. In September 2020, Mr. Lewis' former girlfriend left their child with Mr. Lewis. Mr. Lewis provides primary care for his child and he needs childcare to attend work. That same month, Mr. Lewis moved to Illinois. In December 2020, Mr. Lewis' son tested positive for COVID-19. Mr. Lewis and his son self-quarantined for 14 days. Mr. Lewis looked for childcare. Daycare providers told Mr. Lewis that they could not accept his child

because his child had tested positive for COVID-19 and young children are not eligible for the COVID-19 vaccination.

Mr. Lewis has not experienced COVID-19 symptoms. Mr. Lewis has not scheduled to begin new employment, which was cancelled due to Covid-19. Mr. Lewis is not eligible for unemployment insurance benefits.

Mr. Lewis previously applied for PUA benefits. Iowa Workforce Development issued a decision dated December 23, 2020 that determined Mr. Lewis was not eligible for PUA benefits. Mr. Lewis appealed that decision and had a hearing before an Iowa Workforce Development administrative law judge on March 6, 2021. The administrative law judge's decision in Appeal 21A-DUA-00427-S2-T, dated March 11, 2021, affirmed the December 23, 2020 decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Lewis' appeal 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. Lewis filed his appeal on March 30, 2021, which was before the appeal deadline. Mr. Lewis' appeal was filed on time.

The administrative law judge further concludes:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, Sec. 2102 provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19.

The Continued Assistance for Unemployed Workers Act of 2020 (enacted December 27, 2020) and American Rescue Act of 2021 (enacted March 11, 2021) extended PUA benefits for weeks of unemployment to September 6, 2021.

Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021.

The issue to be determined here is whether claimant is a "covered individual" who is eligible to receive benefits within the meaning of applicable law.

Section 2102 of the CARES Act describes a covered individual as follows:

(3) COVERED INDIVIDUAL.—The term "covered individual"—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;

(ii) the individual has to quit his or her job as a direct result of COVID-19;

(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(ll) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (l); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(l).

Since the administrative law judge's March 11, 2021 decision already found Mr. Lewis not eligible for PUA benefits from December 23, 2020 through March 11, 2020, the decision in this matter is limited to whether Mr. Lewis is eligible for PUA benefits as of March 12, 2021.

In this case, Mr. Lewis made a good faith effort to get childcare so he could work. However, all of the daycares were closed to Mr. Lewis' child as a direct result of his child having previously had COVID-19. Mr. Lewis meets the eligibility requirements of subparagraph (dd), effective March 12, 2021.

Mr. Lewis must make weekly continued claims in order to receive benefits.

DECISION:

The Iowa Workforce Development decision dated April 16, 2021 that determined Mr. Lewis was not eligible for Pandemic Unemployment Assistance (PUA) benefits is modified in favor of the appellant, Mr. Lewis. Mr. Lewis is eligible for PUA benefits effective March 12, 2021, pursuant to subparagraph (dd).



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

June 23, 2021
Decision Dated and Mailed

dz/mh

NOTE TO CLAIMANT:

- Governor Reynolds has decided that Iowa will end its participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. That means **the last week for which you will receive PUA benefits is the week ending June 12, 2021.**