

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RYAN L PARROTT
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**APPEAL 20A-UI-04280-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/08/19
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation
Iowa Code § 96.6(2) – Filing – Timely appeal

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 7, 2020 (reference 01) unemployment insurance decision that found he was overpaid benefits in the amount of \$214.00 for the one week between March 29, 2020 and April 4, 2020. The parties were properly notified of the hearing. A telephone hearing was held on June 8, 2020, at 9:00 a.m. Claimant participated. Claimant's Exhibits 1 – 8 were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant was overpaid benefits.
Whether claimant is eligible for Federal Pandemic Unemployment Compensation.
Whether claimant filed a timely appeal.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to claimant at the correct address on May 7, 2020. Claimant does not recall when he received the decision in the mail. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by May 17, 2020. However, if the due date falls on a Saturday, Sunday or legal holiday, the appeal period is extended to the next working day. May 17, 2020 was a Sunday; therefore, the appeal deadline was extended to Monday, May 18, 2020. Claimant appealed the decision via mail by placing his appeal in the mailbox at the United States Postal Office on May 16, 2020. The postmark and postage meter mark on claimant's appeal is not legible. Claimant did not date his appeal letter. Claimant's appeal was received by Iowa Workforce Development (IWD) on May 20, 2020.

Claimant filed an original claim for benefits effective December 8, 2019. Claimant's weekly benefit amount (WBA) is \$518.00. Claimant filed a weekly claim for benefits for the week ending April 4, 2020. Claimant reported no earnings and received full regular unemployment

insurance (UI) benefit payment in the gross amount of \$518.00. Claimant reported no earnings because he was not aware that he would be receiving Families First Coronavirus Response Act (FFCRA) compensation for that week. Claimant received a FFCRA in the gross amount of \$343.35 for the pay period March 29, 2020 through April 4, 2020. (Exhibit 4) Claimant notified IWD of the FFCRA compensation as soon as he became aware of it. (Exhibit 1 & 3) Claimant also received Federal Pandemic Unemployment Compensation (FPUC) in the gross amount of \$600.00 for the week ending April 4, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's appeal was timely.

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)(a) 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 on 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.

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).

Claimant submitted his appeal by placing it in a mail receptacle at the United States Post Office on May 16, 2020. Any delay in Iowa Workforce Development's receipt of claimant's appeal is due to delay of the United States Postal Service. Claimant's appeal is timely.

The next issue to be determined is whether claimant has been overpaid UI benefits. For the reasons that follow, the administrative law judge concludes claimant was overpaid UI benefits.

Iowa Code § 96.3(7)(a) provides:

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.

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:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(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 contribution 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. 871-24.18 provides:

An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

In accordance with Iowa Administrative Code rule 871-24.18, wages are deductible from claimant's weekly benefit amount, for the week ending April 4, 2020, as follows:

$\$343.35$ (wages) - $\$129.50$ (25% of WBA) = $\$213.85$ (wage deduction)
 $\$518.00$ (WBA) - $\$213.85$ (wage deduction) = $\$304.15$ (partial weekly benefit amount)

Claimant is eligible for reduced UI benefits in the amount of \$304.00 for the week ending April 4, 2020. Claimant received UI benefits in the amount of \$518.00 for that week. Therefore, claimant has been overpaid UI in the amount of \$214.00. Those benefits must be recovered in accordance with Iowa law.

The next issue to be determined is whether claimant is eligible for Federal Pandemic Unemployment Compensation. For the reasons that follow, the administrative law judge concludes that claimant is eligible for FPUC.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Because claimant is entitled to receive UI for the week ending April 4, 2020, claimant is also eligible to receive FPUC for that week. Claimant has not been overpaid FPUC.

DECISION:

Claimant's appeal is timely. The May 7, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$214.00 for the benefit week ending April 4, 2020. Claimant is eligible for Federal Pandemic Unemployment Compensation for the week ending April 4, 2020.



Adrienne C. Williamson
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June 23, 2020
Decision Dated and Mailed

acw/scn