

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**REBECCA M HENRY**  
Claimant

**APPEAL 20A-UI-14553-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/05/20  
Claimant: Appellant (6)**

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Iowa Code § 96.3(7) – Overpayment of Benefits  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

On November 10, 2020, Rebecca Henry (claimant/appellant) filed an appeal from an unemployment insurance decision dated November 2, 2020 (reference 10) that determined claimant had been overpaid Lost Wage Assistance Payments (LWAP).

Notice of hearing was mailed to the party's last known addresses of record for a telephone hearing to be held on January 8, 2021 at 10:45 a.m. A review of the Appeals Bureau's conference call system the same day shows the claimant/appellant did not register a telephone number at which to be reached for the hearing, and no hearing was held.

**ISSUE:**

Should the appeal be dismissed based upon the appellant not participating in the hearing?

**FINDINGS OF FACT:**

The party was properly notified of the scheduled hearing on this appeal. The appellant did not register a telephone number at which to be reached and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The representative's decision concluded claimant had been overpaid LWAP.

**REASONING AND CONCLUSIONS OF LAW:**

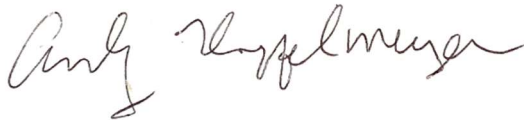
The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party has not responded to a notice of telephone hearing by providing the Appeals Bureau with the names and telephone numbers of the persons who are participating in the hearing *by the scheduled starting time of the hearing or is not available at the telephone number provided*, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rule further states that *failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record*. Iowa Admin. Code r. 871-26.14(7)c. (Emphasis added.)

The appellant appealed the unemployment insurance decision but failed to participate in the hearing. The appellant has therefore defaulted on the appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in force and effect.

**DECISION:**

The unemployment insurance decision dated November 2, 2020 (reference 10) that determined claimant had been overpaid Lost Wage Assistance Payments (LWAP) remains in effect, as the appellant is in default. The appeal is dismissed.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

January 26, 2021  
Decision Dated and Mailed

abd/kmj

**Note to Claimant:**

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.