

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ANN M BROWN**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 21A-UI-23234-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/19/20**  
**Claimant: Appellant (6R)**

PL 116-136, Sec. 2104 - Federal Pandemic Unemployment Compensation  
Iowa Code § 96.6(2) - Timeliness of Appeal

**STATEMENT OF THE CASE:**

On October 19, 2021, claimant/appellant, Ann Brown, filed an appeal from the October 1, 2021, (reference 03) unemployment insurance decision that found claimant was overpaid \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for a 1-week period from 07/19/20 - 07/25/2020. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for December 10, 2021. The claimant participated. The Department did not participate. Judicial notice was taken of the administrative file.

**ISSUE:**

Is claimant's appeal timely?

**FINDINGS OF FACT:**

Having heard the testimony and reviewed the evidence in the record, the administrative law judge finds: Her appeal is dated October 19, 2021 and to be timely, needed to be filed on or before October 10, 2021. Claimant got the decision roughly two to three days prior to filing her appeal, and the reason she did not get the decision timely was claimant failed to update her mailing address with Iowa Workforce Development and mail forwarding added another two to three weeks onto the delivery time.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is not.

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).

Appellant's untimely receipt of the decision in the mail was due to her moving and not letting IWD know of her current address. Mail forwarding added another two to three weeks onto the delivery time. But for not updating her address, she would have timely received the decision. Appellant's delay was not due to an error or misinformation from the Department or due to delay or other action of the United States Postal Service. No other good cause reason has been established for the delay. The administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

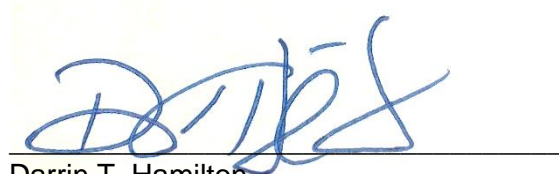
However, the underlying decision denying benefits was reversed in 21A-UI-23234-DH-T.

**DECISION:**

The October 1, 2021, (reference 03) unemployment insurance decision finding claimant was overpaid \$600.00 in benefits remains in effect as the appeal in this case was not timely, and the appeal is **DISMISSED**.

**REMAND:**

The administrative law judge lacks jurisdiction to decide the other issue in this matter. This matter is remanded to the Benefits Bureau to consider whether further action is warranted in light of the reversal of the underlying decision denying benefits in 21A-UI-23234-DH-T.



Darrin T. Hamilton  
Administrative Law Judge

January 14, 2022  
Decision Dated and Mailed

dh/mh

*Note to Claimant:*

This decision determines you have been overpaid FPUC under the CARES Act. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Additionally, instructions for requesting a **waiver** of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/federal-unemployment-insurance-overpayment>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Claimant provided an updated address during the hearing. That corrected address is noted on the first page of this decision. Claimant is directed to contact IWD customer service at 1-866-239-0843 as soon as possible to update their contact information so that their information can be updated within our systems and not just on this one printed decision.