

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SIERRA HEUN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-15235-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION
REOPENED**

**OC: 03/15/20
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

On July 6, 2021, the claimant/appellant filed an appeal from the April 8, 2021, (reference 04) unemployment insurance decision that concluded the claimant was overpaid unemployment insurance benefits in the amount of \$1,168.00 as a result of a disqualification decision. The hearing was originally scheduled for August 30, 2021 at 11:05 a.m. A default decision was entered. The claimant did not receive the notice of the hearing and an order was entered re-opening the record. The parties were properly notified of the hearing. A telephone hearing was held on September 29, 2021. The hearing was held together with Appeals 21A-UI-15234-CS-T and 21A-UI-15236-CS-T. Administrative notice was taken of claimant's unemployment insurance benefits records.

ISSUES:

Was the claimant's appeal timely?

Is the claimant overpaid benefits which must be repaid?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The unemployment insurance decision was not mailed to the appellant's address of record. Claimant had called to change her address to a PO Box but the IWD's system would not update the claimant's address. The appellant did not find out about this decision until July 2021. Claimant had received correspondence about being subject to garnishment if she did not pay back the overpayment. Claimant called IWD to inquire about the letter and that is when she found out about this decision. The appeal was filed immediately after she communicated with IWD and learned about this decision.

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 15, 2020. The claimant filed for and received a total of \$1,168.00 in unemployment insurance benefits for the weeks between May 24, 2020 and August 8, 2020.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been modified in a decision of the administrative law judge in appeal 21A-UI-15234-CS-T.

In that decision the administrative law judge found claimant was not eligible to receive benefits for week ending May 23, 2020 and May 30, 2020. The decision found claimant is eligible to receive benefits after May 30, 2020.

Claimant's weekly benefit amount for this time period was \$109.00. (DBIN). Claimant received \$218.00 for weeks ending May 23, 2020 and May 30, 2020. (DBIN).

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.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appellant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the disqualification. Therefore, the appeal shall be accepted as timely.

The next issue to be decided is whether claimant was overpaid unemployment insurance benefits.

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.

Since the decision disqualifying the claimant has been modified and found claimant was not eligible for unemployment benefits for weeks ending May 23, 2020 and May 30, 2020, the claimant was overpaid \$218.00 in unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated April 8, 2021 (reference 04), is modified in favor of the appellant. The claimant was overpaid \$218.00 in unemployment insurance benefits, which must be repaid.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

September 30, 2021
Decision Dated and Mailed

cs/scn