

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PATRICE E RUNYAN
Claimant

APPEAL 22A-UI-04156-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/29/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Patrice E Runyan, the claimant/appellant, filed an appeal from the October 22, 2021 (reference 02) unemployment insurance (UI) decision that concluded she was overpaid REGULAR (state) UI benefits in the gross amount of \$1,532.00. The parties were properly notified about the hearing. A telephone hearing was held on March 17, 2022. Ms. Runyan participated personally. The department did not participate in the hearing. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Ms. Runyan's appeal filed on time?
Has Ms. Runyan been overpaid REGULAR (state) UI benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Runyan at the correct address on October 22, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by November 1, 2021.

Ms. Runyan received the decision in the mail. Ms. Runyan called IWD on October 28. The representative told Ms. Runyan to not worry about the decision because IWD would figure out what else needed to be done. Ms. Runyan had applied for PUA benefits on February 7, 2021. On February 15, IWD approved Ms. Runyan for PUA benefits effective November 1, 2020.

On December 7, Ms. Runyan received another letter for IWD about an overpayment. Ms. Runyan called IWD, and the representative told her to check her bank statements. Ms. Runyan did so and communicated with the representative several times via email. On January 31, 2022, Ms. Runyan talked with an IWD representative again. The representative told Ms. Runyan about her appeal rights. Ms. Runyan filed an appeal via fax on February 8, 2022. The appeal was received by Iowa Workforce Development on February 8, 2022.

The administrative law judge further finds: Ms. Runyan filed an initial claim for REGULAR (state) UI benefits effective March 29, 2020. Ms. Runyan received REGULAR UI benefits on her claim, including REGULAR UI benefits in the gross amount of \$1,532.00 for 4 weeks between April 12, 2020 and May 9, 2020.

Almost ten months after she filed her initial claim, and had already received REGULAR UI benefits, IWD issued a reference 01 decision finding Ms. Runyan not eligible for REGULAR UI benefits as of April 12, 2020. Ms. Runyan appealed the decision to the Iowa Workforce Development Appeals Bureau. The administrative law judge's decision in Appeal 22A-UI-04155-DZ-T affirmed the reference 01 decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Runyan's appeal of the reference 02 decision 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).

Ms. Runyan received the reference 02 decision after the deadline and, therefore, could have filed an appeal prior to the appeal deadline. The notice provision of the decision was valid. Ms. Runyan communicated with IWD frequently and filed an appeal within 10 days of her the IWD representative telling her about her appeal rights. Ms. Runyan's appeal was filed on time.

The administrative law judge further concludes: Ms. Runyan has been overpaid REGULAR UI 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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Per Iowa law, Ms. Runyan has been overpaid REGULAR UI benefits in the gross amount of \$1,532.00 for 4 weeks between April 12, 2020 and May 9, 2020, which should be repaid. Ms. Runyan has been overpaid REGULAR UI benefits because she is not qualified and/or eligible to receive REGULAR UI benefits per the January 19, 2021, (reference 01) decision that was affirmed by the administrative law judge's decision in Appeal 22A-UI-04155-DZ-T.

DECISION:

Ms. Runyan's appeal of the reference 02 decision was filed on time. The October 22, 2021, (reference 02) decision is AFFIRMED. Ms. Runyan has been overpaid REGULAR UI benefits in the gross amount of \$1,532.00, which must be repaid.



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

March 29, 2022
Decision Dated and Mailed

dz/mh

NOTE TO MS. RUNYAN:

- You are eligible for PUA benefits as of November 1, 2020. This decision finds you are not eligible for REGULAR (state) UI benefits as of April 12, 2020. You already received REGULAR UI benefits for 4 weeks between April 12, 2020 and May 9, 2020.
- If you were unemployed for reasons related to COVID-19 from April 12, 2020 through May 9, 2020, you may qualify for Pandemic Unemployment Assistance (PUA) benefits for those weeks. **You must apply for PUA benefits to determine your eligibility under the program.** To apply for PUA benefits,
 - First go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals>.
 - Go to the "WHAT TO EXPECT FROM THE HEARING" section.
 - Go to the last two sentences in that section.
 - The PUA application link is at the end of the second-to-last sentence of the section.
 - The reference number/authorization is the pin number you used for the March 4, 2022 appeal hearing: 104155.
- **If IWD finds you eligible for PUA benefits, you can use the PUA benefits to pay off the REGULAR UI overpayment.**
- **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you've received so far.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **But you can still apply for PUA benefits at the link above if you were unemployed for reasons related to COVID-19 between February 2, 2020, and June 12, 2021.**