

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KRISTIN L CURRIE**  
Claimant

**APPEAL 17A-UI-01984-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/13/16  
Claimant: Appellant (1)**

Iowa Code § 96.4(4)a-c – Monetary Eligibility and Subsequent Benefit Year  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the November 23, 2016, (reference 01) unemployment insurance decision that denied benefits because of a lack of at least \$250.00 in insured wages during or after the prior claim year. After due notice was issued, a hearing was held on March 14, 2017. Claimant participated. Claimant's Exhibit A was admitted into evidence.

**ISSUES:**

Is the appeal timely?

Did the claimant earn insured wages of \$250.00 or more during or after the previous benefit year to make her eligible for a second benefit year?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on November 23, 2016. The appellant did receive the decision within ten days, but had not earned any wages at the time she received the decision. Following her receipt of the letter claimant took steps to secure employment in order to earn \$250.00 in wages required to allow her to continue to receive benefits. Claimant earned gross wages in the amount of \$312.60 between February 12 and February 25, 2017. All of these wages were from tutoring through her school's work study program. Iowa unemployment insurance taxes were not paid on these wages. Once claimant received a copy of her first paycheck she submitted it to Iowa Workforce Development. Claimant was told the wages were not qualifying, but no new fact-finding decision on the matter was issued. Once claimant was verbally advised by IWD that her wages were not qualifying, she immediately filed her appeal of the November 23, 2016 decision on February 21, 2017.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely, but she is not eligible to receive benefits during the subsequent benefit year.

Iowa Code § 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 § 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to § 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 § 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to § 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving § 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 § 96.8, subsection 5.

The claimant's failure to file an appeal within the appeal period was solely because of incorrect information received from Iowa Workforce Development. When claimant presented her new wages to Iowa Workforce Development, the information should have been sent to the benefits bureau for an initial investigation and determination, rather than claimant being verbally informed that her wages were not qualifying. Because this was not done, the only decision claimant had to appeal was the one issued on November 23, 2016. Claimant made her appeal immediately upon finding that she had an issue she wished to appeal. Therefore, the appeal shall be accepted as timely.

Iowa Code § 96.4(4)a-c provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least  $1\frac{1}{4}$  times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base

period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

The claimant did earn \$250.00 in wages, but the work was done for an employer who is exempt from paying unemployment insurance taxes on behalf of its employees. Iowa Code § 96.19(18)g(6), (7), and (8) states that the term "employment" as defined by unemployment law does not apply to service performed "in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school." Here, claimant performed services for a school where she was enrolled as a student and attending classes. Claimant confirmed the work she performed was classified as work-study. While the claimant earned wages for the employer/school, it is exempt from payroll tax contributions to Iowa Workforce Development such that claimant's wages are not covered for unemployment insurance purposes. Because the claimant did demonstrate an ongoing connection to the labor market by earning at least \$250.00 in insured wages during or subsequent to the claim year beginning November 1, 2015, she is not eligible to receive benefits during the current claim year beginning November 23, 2016.

**DECISION:**

The November 23, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant's appeal is timely. The claimant is not eligible to receive benefits during the current claim year beginning November 23, 2016. If claimant does earn \$250.00 in insured wages she may present evidence of that to IWD to determine eligibility.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

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