

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**CHERYL A HOLUB**  
Claimant

**APPEAL 21A-UI-17002-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 08/09/20**  
**Claimant: Appellant (1)**

---

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On August 3, 2021, claimant Cheryl A. Holub filed an appeal from the July 2, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant denied benefits effective May 2, 2021, as she was still employed at the same hours and wages as contemplated at hire. The parties were properly notified of the hearing. A telephonic hearing was held at 1:00 p.m. on Friday, September 24, 2021. The claimant, Cheryl A. Holub, participated. The employer, The University of Iowa, participated through Jessica Wade, HR Business Analyst. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did the claimant file a timely appeal?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer The University of Iowa on November 2, 1992. Claimant is currently employed with the employer as a full-time registered nurse.

A disqualification decision was mailed to claimant's last known address of record on July 2, 2021. Based on the testimony, it appears the claimant did receive the decision. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by July 12, 2021. The appeal was not filed until August 3, 2021, which is after the date noticed on the disqualification decision. Claimant offered no explanation for failing to file a timely appeal.

In 2020, the employer decided to mandate cost-saving furloughs or vacation give-backs for all University of Iowa Healthcare and Clinics ("UIHC") employees. Claimant and those in her job classification were required to either take two weeks of furlough between July 1, 2020, and June

30, 2021, or to give back 100 hours of vacation time. Claimant elected to take the furlough weeks.

Claimant opened her claim for unemployment insurance benefits effective August 9, 2020. She took her first furlough week the week of August 10 through 14. She then filed a claim for benefits for the one-week period ending August 15, 2020.

Claimant took her second furlough week from April 18 through 22. She attempted to reopen her claim for benefits and file for benefits around that time period. However, the administrative record does not reflect that claimant reopened her claim or filed a weekly claim for benefits at that time.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant failed to file a timely appeal.

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).

Here, the claimant received the decision in the mail and, therefore, had an opportunity to file an appeal prior to the appeal deadline. Claimant'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. Claimant's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

**DECISION:**

The July 2, 2021, (reference 01) unemployment insurance decision is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect.



---

Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

September 29, 2021  
Decision Dated and Mailed

lj/ol