

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PAULA M STONE**  
Claimant

**APPEAL 22A-UI-03003-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 12/29/19  
Claimant: Appellant (1)**

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Iowa Code § 96.6(2) - Timeliness of Appeal  
§ 96.29 - Extended Benefits  
20 CFR 615 - Extended Benefits  
PL 110-252, Sec. 4001 - Federal Emergency Unemployment Compensation Extension Act

**STATEMENT OF THE CASE:**

Claimant/appellant, Paula Stone, filed an appeal from the January 16, 2021, (reference 04) unemployment insurance decision that denied extended benefits (EB) effective 09/06/20 because claimant would be monetarily eligible for regular unemployment benefits in Nebraska. After proper notice, a telephone hearing was conducted on March 1, 2022. Claimant participated personally. The following hearings were held together as part of a consolidated hearing: Appeals 22A-UI-03002-DH-T, 22A-UI-03003-DH-T, 22A-UI-03004-DH-T, 22A-UI-03005-DH-T, 22A-UI-03006-DH-T and 22A-UI-03007-DH-T. Judicial notice was taken of the administrative records.

**ISSUES:**

Is the appeal timely?  
Is the claimant eligible for Extended Benefits?

**FINDINGS OF FACT:**

Having heard the testimony and reviewed the evidence in the record, the administrative law judge finds: The claimant filed a new claim for unemployment insurance benefits with an effective date of December 29, 2019. Claimant exhausted regular unemployment insurance benefits with the June 6, 2020 payment.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 22A-UI-03002-DH-T.

An initial decision (reference 04) was mailed to the claimant/appellant's address of record on January 16, 2021. The decision contained a warning that an appeal must be filed by January 27, 2021. The decision also directed the appellant to call the customer service line for assistance. Appellant did not receive the decision. Appellant filed the appeal on November 3, 2021. The

appeal was delayed because claimant never received the decision, and became aware with this decision via the overpayment of EB decision subject to appeal 22A-UI-03005-DH-T.

### **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 timely.

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).

Claimant 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 timely appealed the overpayment decision, which was the first notice of disqualification. Therefore, the appeal shall be accepted as timely.

The next issue in this case is whether the claimant was eligible for extended benefits. For the reasons set forth below, the administrative law judge determines she is not.

The Emergency Unemployment Compensation (EUC) program was created by Public Law 110-252, Title VI. This temporary unemployment insurance program provides up to 13 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular unemployment compensation benefits. PL Section 4001(d)(2)(A) states that persons shall not be eligible for Extended Benefits unless they have "20 weeks of full-time insured employment or the equivalent in insured wages" in their base period as determined by the state law implementing the Extended Unemployment Compensation Act of 1970.

The Extended Unemployment Compensation Act of 1970 allowed states to choose one of three methods for determining an "equivalent of 20 weeks of full-time insured employment." The method Iowa chose is in Iowa Code § 96.29-1-c, which requires claimants have total base period wages of at least 1.5 times the wages paid during the quarter of the base period in which their wages were highest.

The claimant is not ineligible for Extended Benefits because they were eligible for regular unemployment compensation benefits in the state of Nebraska.

**DECISION:**

The January 16, 2021, (reference 04) unemployment insurance decision that denied extended benefits effective 09/06/20 because claimant would be monetarily eligible for regular unemployment benefits in Nebraska is **AFFIRMED**.



Darrin T. Hamilton  
Administrative Law Judge

March 24, 2022  
Decision Dated and Mailed

dh/mh