

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**SHRISE D MCDADE**  
Claimant

**APPEAL 22R-UI-01031-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/29/20**  
**Claimant: Appellant (6)**

---

Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.3(7) – Overpayment of Benefits  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

On July 20, 2021, Shrise McDade (claimant/appellant) filed an appeal from the Iowa Workforce Development decision dated June 8, 2021 (reference 02) that determined she was overpaid Lost Wage Assistance Payments (LWAP) in the amount of \$1,800.00 with a 15 percent misrepresentation penalty as a result of a decision finding claimant ineligible for federal Pandemic Unemployment Assistance (PUA).

Notice of hearing was mailed to the party's last known addresses of record for a telephone hearing to be held on September 3, 2021 at 10:05 a.m. Claimant/appellant was not available at the hearing start time at the number she registered for the hearing and her voicemail was full. She did not call in within a reasonable timeframe after the hearing start time. As such, no hearing was held and a default decision was issued.

Claimant appealed the default decision to the Employment Appeal Board (EAB). The EAB found it was reasonable for claimant to wait over 30 minutes after the hearing start time to take steps to participate in the hearing as scheduled and remanded for a new hearing.

A new hearing was set for January 31, 2022 at 9 a.m. The Department's representative was prepared to proceed with the hearing as scheduled. Claimant did not call in to participate in the hearing, despite the administrative law judge leaving the record open until 10:15 a.m. As such, no hearing was held.

**ISSUE:**

Should the appeal be dismissed based upon the appellant not participating in the hearing?

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing for this appeal. The appellant failed to call the toll-free number listed on the hearing notice at the time of the hearing and did not participate or request a postponement of the hearing as required by the hearing notice. Official

notice of the Clear2there hearing control screen is taken to establish that appellant did not call in to participate.

The hearing notice instruction specifically advises parties of the date and time of hearing. It also states:

**IMPORTANT NOTICE!**

**YOU MUST CALL** the toll-free number: **866-783-7021** at the time of the hearing. When instructed, enter the PIN Number...followed by the pound key [#] and wait for the administrative law judge to begin the hearing.

The administrative law judge **WILL NOT** call you for the hearing, you **MUST** call into the number provided above to participate. **Failure to participate in the hearing may result in the dismissal of your appeal.**

The back page of the hearing notice provides further hearing instructions stating, "You must call the toll-free number on the front of this notice at the time of the hearing to participate." This information also appears on the hearing notice in Spanish.

The record was left open for a minimum of 15 minutes after the hearing start time as a courtesy to the appellant. The appellant did not call in to participate within that timeframe.

**REASONING AND CONCLUSIONS OF LAW:**


The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party fails to participate the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rule further states that *failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record*. Iowa Admin. Code r. 871-26.14(7)c. (Emphasis added.)

The appellant appealed the unemployment insurance decision but failed to participate in the hearing. The appellant has therefore defaulted on the appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in force and effect.

**DECISION:**

The decision dated June 8, 2021 (reference 02) that determined claimant was overpaid Lost Wage Assistance Payments (LWAP) in the amount of \$1,800.00 with a 15 percent misrepresentation penalty as a result of a decision finding claimant ineligible for federal Pandemic Unemployment Assistance (PUA) remains in force, as the appellant is in default. The appeal is dismissed.



---

Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

February 18, 2022  
Decision Dated and Mailed

abd/abd

***Note to Claimant:***

If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If this decision determines you have been overpaid federal pandemic-related benefits you may request a waiver of the overpayment. Instructions for requesting a waiver can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.