

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JACALYN S RHODES

Claimant

APPEAL NO. 22A-UI-04796-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORP

Employer

OC: 04/19/20

Claimant: Appellant (1)

Iowa Code Section 96.6(2) – Timeliness of Appeal

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On February 11, 2022, Jacalyn Rhodes filed a late appeal from the July 30, 2020 (reference 01) decision that denied benefits for the period beginning April 19, 2020, based on the deputy's conclusion that the claimant was still employed with Central Iowa Hospital Corporation for the same hours and wages as in the original contract of hire and could not be deemed partially unemployed. After due notice was issued, a hearing was held on March 30, 2022. Ms. Rhodes participated. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. There were three appeal numbers set for a consolidated hearing: 22A-UI-04796-JT-T, 22A-UI-04797-JT-T, and 22A-UI-04799-JT-T. Exhibit A, the February 11, 2022 online appeal, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, NMRO, the reference 01 through 04 decisions, and the deputy's notes regarding the July 21, 2020 fact-finding interview.

ISSUES:

Whether the appeal was timely. Whether there is good cause to treat the appeal as timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Jacalyn Rhodes (claimant) established an original claim for benefits that was effective April 19, 2020.

On July 21, 2020, an Iowa Workforce Development Benefits Bureau deputy held a fact-finding interview in which the claimant participated. The fact-finding interview addressed the claimant's employment status with Central Iowa Hospital Corporation, whether the claimant was able to work and available for work, and whether the claimant was temporarily or partially unemployed.

On June 30, 2020, Iowa Workforce Development mailed two decisions to the claimant at her Des Moines last-known address of record. The reference 01 decision denied benefits for the

period beginning April 19, 2020, based on the deputy's conclusion that the claimant was still employed with Central Iowa Hospital Corporation for the same hours and wages as in the original contract of hire and could not be deemed partially unemployed. The reference 02 decision allowed benefits effective April 26, 2020, provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was able to work, available for work, but on short-term layoff from the Central Iowa Hospital Corporation employment. The reference 02 decision effectively limited the benefit denial in the reference 01 decision to the week of April 19-25, 2020. Each decision stated the decision would become final unless an appeal was postmarked by August 9, 2020 or was received by the Appeals Section by that date. Each decision also stated that if the appeal deadline fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. August 9, 2020 was a Sunday and the next working day was Monday, August 10, 2020. The claimant received the reference 01 and reference 02 decisions in a timely manner, prior to the deadline for appeal. The claimant did not take steps to file an appeal from the reference 01 decision by the August 10, 2020 extended appeal deadline.

On March 17, 2021, Iowa Workforce Development mailed the reference 03 decision to the claimant's address of record. The reference 03 decision held the claimant was overpaid \$186.00 in regular benefits for the week that ended April 25, 2020, due to the earlier decision that denied benefits for that week. The reference 03 decision erroneously stated the earlier decision date as March 16, 2021, when the correct date was June 30, 2020. The reference 03 decision stated the decision would become final unless an appeal was postmarked by March 27, 2021 or was received by the Appeals Section by that date. The reference 03 decision also stated that if the appeal deadline fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. March 27, 2021 was a Saturday and the next working day was Monday, March 29, 2021. The claimant received the reference 03 decision in a timely manner, prior to the deadline for appeal. The claimant did not take steps to file an appeal from the reference 03 decision by the March 29, 2021 extended appeal deadline.

On August 4, 2021, Iowa Workforce Development mailed the reference 04 decision to the claimant's address of record. The reference 04 decision include an erroneous March 16, 2021 decision date. The reference 04 decision held the claimant was overpaid \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) for the week that ended April 25, 2020. The reference 04 decision cited the March 2021 overpayment decision as the basis for the FPUC overpayment decision. The reference 04 decision stated the decision would become final unless an appeal was postmarked by August 14, 2021 or was received by the Appeals Section by that date. The reference 04 decision also stated that if the appeal deadline fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. August 14, 2021 was a Saturday and the next working day was Monday, August 16, 2021. The claimant received the reference 04 decision in a timely manner, prior to the deadline for appeal. The claimant did not take steps to file an appeal from the reference 04 decision by the August 16, 2021 extended appeal deadline.

The claimant advises that in October 21, 2021 the claimant contacted Iowa Workforce Development about requesting a waiver of repayment. The claimant subsequently had additional contact with Iowa Workforce Development regarding the waiver issue. On or about February 11, 2021, the claimant spoke with an Agency representative regarding the status of the waiver application. After that contact, the claimant completed an online appeal on February 11, 2021. The Appeals Bureau received the appeal on February 11, 2021 and treated it as an appeal from all three adverse decisions.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 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 section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 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 section 96.8, subsection 5.

The ten-day deadline for appeal begins to run on the date Workforce Development mails the decision to the parties. The "decision date" found in the upper right-hand portion of the Agency representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

An appeal submitted by mail is deemed filed 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 was 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. See Iowa Administrative Code rule 871-24.35(1)(a). See also *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983). An appeal submitted by any other means is deemed filed on the date it is received by the Unemployment Insurance Division of Iowa Workforce Development. See Iowa Administrative Code rule 871-24.35(1)(b).

The evidence in the record establishes that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. 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). One question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case. See Iowa Administrative Code rule 871-24.35(2)(c).

The evidence in the record establishes an untimely appeal. The evidence establishes that the claimant received the reference 01 decision in a timely manner, had a reasonable opportunity to file an appeal by the appeal deadline, but unreasonably delayed filing the appeal to February 11, 2022. The late filing of the appeal was not attributable to the Iowa Workforce Development error or misinformation or delay or other action of the United States Postal Service. There is not good cause to treat the late appeal as a timely appeal. See Iowa Administrative Code rule 871-24.35(2). Because the appeal was untimely, administrative law judge lacks jurisdiction to disturb the decision from which the claimant appeals in the present matter. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

DECISION:

The claimant's appeal from the appeal from the July 30, 2020 (reference 01) decision is untimely. The decision that denied benefits for the period beginning April 19, 2020, based on the deputy's conclusion that the claimant was still employed with Central Iowa Hospital Corporation for the same hours and wages as in the original contract of hire and could not be deemed partially unemployed, remains in effect, but pertains only to the benefit week ending April 25, 2020.



James E. Timberland
Administrative Law Judge

April 7, 2022
Decision Dated and Mailed

jet/scn