

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KYLA J MUNDSCHENK**  
Claimant

**APPEAL 21A-DUA-01016-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/19/20  
Claimant: Appellant (4)**

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Iowa Code § 96.6(2) – Timely Appeal  
PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance  
20 CFR 625 – Disaster Unemployment Assistance

**STATEMENT OF THE CASE:**

Kyla J Mundschenk, the claimant/appellant, filed an appeal from the Iowa Workforce Development decision dated January 30, 2021 that determined she was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Ms. Mundschenk was properly notified of the hearing. A telephone hearing was held on April 19, 2021, at 11:00 a.m. Ms. Mundschenk participated and testified. Official notice was taken of the administrative record. .

**ISSUES:**

Is Ms. Mundschenk's appeal filed on time?  
Is Ms. Mundschenk eligible for PUA benefits?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Mundschenk at the correct address on January 30, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by February 11, 2021. Ms. Mundschenk appealed the decision online on February 10, 2021. The appeal was received by Iowa Workforce Development on February 10, 2021.

The administrative law judge further finds: Ms. Mundschenk is employed at Sedgwick as of November 9, 2020. She works remotely as a full-time disability representative. Prior to November 9, 2020, Ms. Mundschenk worked at Luther Manor as a full-time certified nursing assistant/certified medical assistant (CNA/CMA).

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. Ms. Mundschenk was pregnant. Ms. Mundschenk's doctor advised her to self-quarantine because of the risk for severe complications if she were to contract COVID-19. Ms. Mundschenk informed the employer by submitting a doctor's note date April 20, 2020 advising her to self-quarantine. Ms. Mundschenk took an unpaid leave of absence from April 20, 2020

through the end of May 2020. Ms. Mundschenk returned to work in June 2020 because the employer was pressuring her to return to work and she did not want to lose her job.

From September 21, 2020 through October 7, 2020, Ms. Mundschenk took paid-time-off (PTO). From October 8, 2020 through December 31, 2020, Ms. Mundschenk took unpaid maternity leave during which time she self-quarantined due to concerns about the pandemic. Ms. Mundschenk returned to work in January 2021 as an on-call CNA/CMA. Ms. Mundschenk quit working for Luther Manor in March 2021 because the employer denied her request to take person leave because her father was sick.

Ms. Mundschenk self-quarantined in December 2020 and again at the end of January 2021 because she had been exposed to someone who had tested positive for COVID-19.

Ms. Mundschenk is the mother of one child, age six months. Ms. Mundschenk's child is in daycare and she requires daycare in order to attend work.

Ms. Mundschenk has had no COVID-19 symptoms. No one in her household has tested positive for COVID. Ms. Mundschenk has not scheduled to begin new employment, which was cancelled due to Covid-19. Ms. Mundschenk is not eligible for unemployment insurance benefits.

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

For the reasons that follow, the administrative law judge concludes that Ms. Mundschenk's appeal was filed on time.

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).

Ms. Mundschenk appealed the decision before the deadline. Her appeal was filed on time.

The administrative law judge further concludes:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, Sec. 2102 provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19.

The issue to be determined here is whether claimant is a "covered individual" who is eligible to receive benefits within the meaning of applicable law.

Section 2102 of the CARES Act describes a covered individual as follows:

(3) COVERED INDIVIDUAL.—The term "covered individual"—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;

(ii) the individual has to quit his or her job as a direct result of COVID-19;

(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(ll) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (l); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(I).

Ms. Mundschenk self-quarantined from April 20, 2020 through May 31, 2020 because her doctor advised her to do so due to concerns about COVID-19 and her pregnancy. Ms. Mundschenk meets the eligibility requirements of subparagraph (ff) during this time period and is eligible for PUA benefits during this time period.

Ms. Mundschenk self-quarantined again from October 8, 2020 through December 31, 2020 because her doctor advised her to do so due to concerns about COVID-19 and her pregnancy. Ms. Mundschenk meets the eligibility requirements of subparagraph (ff) during this time period and is eligible for PUA benefits during this time period.

Ms. Mundschenk self-quarantined in December 2020 and again in January 2021 because she had been exposed to someone. However, since Ms. Mundschenk was working from home she continued to work. Ms. Mundschenk does not meet the eligibility requirements outlined above during these time periods.

Ms. Mundschenk must file weekly continued claims in order to receive benefits.

**DECISION:**

Ms. Mundschenk's appeal was filed on time. The Iowa Workforce Development decision dated January 30, 2021 that determined Ms. Mundschenk was not eligible for Pandemic Unemployment Assistance (PUA) benefits is modified in favor of the appellant, Ms. Mundschenk. Ms. Mundschenk is eligible for PUA benefits from April 20, 2020 through May 31, 2020 and from October 8, 2020 through December 31, 2020, pursuant to subparagraph (ff).



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April 23, 2021  
Decision Dated and Mailed

dz/kmj