

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAREN HINCAPIE
Claimant

APPEAL 22A-UI-04020-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/05/20
Claimant: Appellant (1R)

Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 23, 2021 (reference 02) unemployment insurance decision that found claimant was overpaid unemployment insurance (UI) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on March 17, 2022. Claimant participated. Spanish language translation was provided by Eric (ID 14115) of CTS Language Link. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant filed a timely appeal.
Whether claimant was overpaid UI benefits.

FINDINGS OF FACT:

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

On April 23, 2021, Iowa Workforce Development (IWD) issued a decision (reference 02) which found claimant was overpaid UI in the gross amount of \$1,004.00 for the six-week period between April 5, 2020 and May 16, 2020 because she was not eligible for UI benefits.

The decision was mailed to claimant at the correct address on April 23, 2021. Claimant received the decision. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by May 3, 2021. Claimant did not appeal the decision.

Claimant appealed a subsequent decision that withheld her state income tax refund online on January 6, 2022. IWD received the appeal on January 6, 2022 and applied it to all adverse decisions including the UI overpayment decision. Claimant gave no reason for not appealing the overpayment decision.

On March 18, 2022, IWD issued a decision granting claimant Pandemic Unemployment Assistance (PUA) benefits effective April 5, 2020 in the amount of \$203.00 per week. Claimant has not received PUA benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

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). The 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).

Claimant received the decision but did not appeal the decision until after the deadline. Claimant's delay was not due to agency error or misinformation or delay of the United States Postal Service. The appeal was not timely. Therefore, the administrative law judge lacks

jurisdiction to make a determination with respect to the nature of the appeal. The UI overpayment decision remains in effect.

IWD Benefits Bureau should determine and release the net benefits owed to claimant.

DECISION:

Claimant's appeal was not timely. The administrative law judge has no authority to change the decision of the representative. The April 23, 2021 (reference 02) unemployment insurance decision is affirmed.

REMAND:

This matter is remanded to the Benefits Bureau of IWD to determine and release the net benefits owed to claimant.



Adrienne C. Williamson
Administrative Law Judge
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March 25, 2022
Decision Dated and Mailed

acw/ACW