

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

RUTH SANSON
Claimant

APPEAL NO: 12A-UI-07274-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/15/12
Claimant: Appellant (4)

Iowa Code § 96.4-3 - Able and Available for Work
Iowa Code § 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

Ruth Sanson (claimant) appealed an unemployment insurance decision dated May 15, 2012, reference 03, which held that she was not eligible for unemployment insurance benefits because she is not medically able to perform work. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on July 17, 2012. The claimant participated in the hearing. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's appeal is timely, and if so, whether she is able and available to work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: A disqualification decision was mailed to the claimant's last-known address of record on May 15, 2012. The claimant did not receive the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by May 25, 2012. The appeal was not filed until June 19, 2012, which is after the date noticed on the disqualification decision. The claimant filed an appeal after she received notice of an overpayment.

The claimant and other medical center employees were laid off effective April 14, 2012 due to a tornado hitting the town. Employees were called when needed. The claimant went on a medical leave after May 8, 2012 due to having surgery. She has subsequently returned to work.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.6-2 provides in pertinent part:

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. . . . 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.

The claimant did not receive the decision within the ten-day time period allowed for the appeal. She did file an appeal immediately upon receiving information she had been disqualified. Therefore, the appeal shall be accepted as timely.

The substantive issue to be determined in this case is whether the claimant is able and available to work. In order for an individual to be eligible to receive unemployment insurance benefits, the evidence in the record must establish that she is able to and available for work. 871 IAC 24.22.

The claimant initially filed her claim for unemployment insurance benefits due to being laid off by the employer. She is eligible for benefits for the three-week period ending May 5, 2012. The claimant went on medical leave on May 9, 2012 and was not able and available to work as of that date. A claimant is disqualified for benefits when she is under the care of a physician and not able to work. 871 IAC 24.23(35). Benefits are therefore denied as of May 12, 2012.

DECISION:

The claimant's appeal is timely. The unemployment insurance decision dated May 15, 2012, reference 03, is modified in favor of the appellant. The claimant does not meet the availability requirements and benefits are denied as of May 12, 2012.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs