

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BONNIE L GAZY**  
Claimant

**APPEAL 21A-DUA-01793-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 07/01/21  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

On August 26, 2021, Bonnie Gazy (claimant/appellant) filed an appeal from the Iowa Workforce Development decision dated July 1, 2021 reference number (00) that determined claimant was eligible for federal Pandemic Unemployment Assistance (PUA) effective December 6, 2021, asserting she should have started receiving benefits from October 11, 2021. A telephone hearing was held on October 20, 2021. The parties were properly notified of the hearing. The claimant participated personally. The department did not participate. Judicial notice was taken of the administrative record.

**ISSUE:**

Is the Appeal Timely?

**FINDINGS OF FACT:**

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

Claimant's appeal is dated August 26, 2021 and to be timely, needed to be filed on or before July 12, 2021. In claimant's appeal, she states she timely received the decision, receiving it approximately July 7, 2021. Claimant argues she never got a decision denying benefits for the window requested. Claimant did timely receive the 07/01/21 (ref 00) decision, which is the decision for the appeal at hand.

Claimant further asserts the delay was caused by being lied to by Iowa Workforce Development. Claimant had claims in both Montana and in Iowa at the time. Claimant talked to IWD to get information and IWD reported to her the status of her various claims and dollar amounts received, information that is fact or data driving. Claimant was not told she could not file an appeal or to not file an appeal. Claimant was not lied to or misinformed, but delayed filing her appeal on her own volition. Claimant timely received the decision and did not file her appeal until August 26, 2021 by submitting her appeal electronically.

## REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is not.

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).

Appellant timely received the decision in the mail and therefore had an opportunity to file an appeal prior to the appeal deadline. Appellant's delay was not due to an error or misinformation from the Department or due to delay or other action of the United States Postal Service. No other good cause reason has been established for the delay. Claimant waited too long before going to the IWD office to file an appeal. Claimant's appeal was not timely filed and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

**DECISION:**

The Iowa Workforce Development July 1, 2021 reference number (00) decision that determined claimant was eligible for federal Pandemic Unemployment Assistance (PUA) commencing December 6, 2021 is **AFFIRMED**. The appeal in this case was not timely, and the decision of the representative remains in effect.



Darrin T. Hamilton  
Administrative Law Judge

December 14, 2021  
Decision Dated and Mailed

dh/mh