

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAKOTA R SLITER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-19816-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/14/20
Claimant: Appellant (1)

Iowa Code §96.6(2) – Timely Appeal
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Dakota R Sliter, the claimant/appellant, filed an appeal from the August 24, 2021, (reference 03) unemployment insurance decision that concluded she was overpaid REGULAR unemployment insurance (UI) benefits in the amount of \$1,215.13. Ms. Sliter was properly notified of the hearing. A telephone hearing was held on November 4, 2021. Ms. Sliter participated and testified. Lisa Sliter, Ms. Sliter's mother, testified in favor of Ms. Sliter. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Ms. Sliter's appeal filed on time?
Has Ms. Sliter been overpaid REGULAR UI benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Sliter at the correct address on August 24, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by September 3, 2021.

Ms. Sliter received the decision in the mail on September 7, 2021. Ms. Sliter filed an appeal via fax on September 7, 2021. The appeal was received by Iowa Workforce Development on September 7, 2021.

The administrative law judge further finds: Ms. Sliter filed an initial claim for REGULAR UI benefits effective June 14, 2020. She filed weekly claims and reported her weekly wages from June 14, 2020 through October 10, 2020.

Over three months after she filed her initial claim, and she had already received REGULAR UI benefits, IWD issued a decision dated October 1, 2020, (reference 01) finding Ms. Sliter not eligible for REGULAR UI benefits. Ms. Sliter appealed the decision to the Iowa Workforce Development Appeals Bureau. The administrative law judge's decision in Appeal 21A-UI-19815-DZ-T, affirmed the reference 01 decision.

Ms. Sliter had received REGULAR UI benefits in the amount of \$1,215.13 for 14 weeks between June 14, 2020 and September 19, 2020. Since Ms. Sliter had already received REGULAR UI benefits, but she was not eligible for those benefits IWD issued the reference 03 decision appealed in this matter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Sliter's appeal of the reference 03 decision 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. Sliter did not receive the decision in the mail before the deadline and, therefore, could not have filed an appeal prior to the appeal deadline. The notice provision of the decision was invalid. Ms. Sliter filed her appeal as soon as she received the decision. Ms. Sliter's appeal of the reference 03 decision was filed on time.

The administrative law judge further concludes Ms. Sliter has been overpaid REGULAR UI benefits.

Iowa Code §96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Per Iowa law, Ms. Sliter has been overpaid REGULAR UI benefits in the amount of \$1,215.13 for 14 weeks between June 14, 2020 and September 19, 2020. Ms. Sliter has been overpaid REGULAR UI benefits because she is not qualified and/or eligible to receive REGULAR UI benefits during the weeks listed above per the October 1, 2020, (reference 01) decision that was affirmed by the administrative law judge's decision in Appeal 21A-UI-19815-DZ-T.

DECISION:

Ms. Sliter's appeal of the reference 03 decision was filed on time. The August 24, 2021, (reference 03) unemployment insurance decision is affirmed. Ms. Sliter has been overpaid REGULAR UI benefits in the amount of \$1,215.13, which must be repaid.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

December 6, 2021
Decision Dated and Mailed

dz/scn

NOTE TO MS. SLITER:

- If you were unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>.
- **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **You can still apply for PUA benefits at the link above if your initial claim for benefits was filed before June 12, 2021.** Your initial claim for benefits was filed on June 14, 2020.