

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TAYLOR D MARTIN**  
Claimant

**APPEAL 21A-UI-23207-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 08/25/19**  
**Claimant: Appellant (1)**

Public Law 116-136, sec. 2104 – Federal Pandemic Unemployment Compensation  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On October 18, 2021, claimant Taylor D. Martin filed an appeal from the June 30, 2021 (reference 03) unemployment insurance decision that found claimant was overpaid Federal Pandemic Unemployment Compensation (“FPUC”) benefits for the thirteen-week period ending July 11, 2020. The claimant was properly notified of the hearing. A telephone hearing was held at 1:00 p.m. on Friday, December 10, 2021. Appeal numbers 21A-UI-23205-LJ-T, 21A-UI-23206-LJ-T, and 21A-UI-23207-LJ-T were heard together and created one consolidated record. The claimant, Taylor D. Martin, participated personally. Department’s Exhibits D-1, D-2, D-3, and D-4 were admitted into the record. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

**ISSUE:**

Did the claimant file a timely appeal?

**FINDINGS OF FACT:**

Having heard the testimony and considered all of the evidence in the record, the administrative law judge finds: A decision denying federal Pandemic Emergency Unemployment Compensation (“PEUC”) benefits was mailed to claimant's last known address of record on August 17, 2020. Claimant maintains he did not receive this decision. However, he lives with his grandparents and admits that the decision could have gotten mixed up with their mail. This PEUC disqualification decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by August 27, 2020. No appeal was filed at that time.

Next, the agency mailed claimant two overpayment decisions on June 30, 2021. One of these decisions dated June 30, 2021 (reference 02) found claimant had been overpaid PEUC benefits in the amount of \$2,704.00 for the thirteen-week period ending July 11, 2020. The other decision dated June 30, 2021 (reference 03) found claimant had been overpaid FPUC benefits in the amount of \$7,800.00 for that same thirteen-week period. Both of these overpayment decisions contained a warning that an appeal must be postmarked or received by the Appeals

Bureau by July 11, 2021. The appeal was not filed until October 18, 2021, which is after the date noticed on the disqualification decision.

Claimant explained that he received the first overpayment notices in the mail and then “totally forgot” about them. Later, he received additional notices regarding each of the overpayment decisions. Claimant called the agency and someone walked him through how to file an appeal online. This appeal was applied to both the overpayment decisions and the underlying PEUC disqualification decision.

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

For the reasons that follow, the administrative law judge concludes the claimant’s appeal is untimely.

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).

Here, the claimant received the decision in the mail and, therefore, had an opportunity to file an appeal prior to the appeal deadline. Claimant'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's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

**DECISION:**

The June 30, 2021, (reference 03) unemployment insurance decision is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

January 13, 2022  
Decision Dated and Mailed

lj/lj

**NOTE TO CLAIMANT:**

- This decision determines you have been overpaid FPUC benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- You may also request a waiver of this overpayment. The written request must include the following information:
  1. Claimant name & address.
  2. Decision number/date of decision.
  3. Dollar amount of overpayment requested for waiver.
  4. Relevant facts that you feel would justify a waiver.
- The request should be sent to:

Iowa Workforce Development  
Overpayment waiver request  
1000 East Grand Avenue  
Des Moines, IA 50319
- This Information can also be found on the Iowa Workforce Development website at: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.