

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHASE M LIHS
Claimant

APPEAL 21A-UI-14846-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/28/21
Claimant: Appellant (1)**

Iowa Code § 96.4(4) – Eligibility
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 9 2021 (reference 02) unemployment insurance decision that found claimant was not eligible for benefits in a second benefit year because he had not been paid insured wages during or after the previous claim year of at least eight (8) times the weekly benefit amount of the previous claim year. The claimant was properly notified of the hearing. A telephone hearing was held on August 26, 2021. This hearing was held in conjunction with appeal 21A-UI-14845. The claimant participated personally. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was the claimant's appeal timely?

Has the claimant been paid insured wages sufficient to be eligible for benefits in a second benefit year?

FINDINGS OF FACT:

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

An Iowa Workforce Development unemployment insurance decision was mailed to the claimant's last known address of record on April 9, 2021. Claimant received the decision within the appeal period. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by April 19, 2021. The appeal was not filed until June 30, 2021, which is after the date noticed on the unemployment insurance decision because claimant was confused about the appeal process. Claimant was in contact with an Iowa Workforce Development Representative and was exchanging emails. Claimant was finally able to contact someone on the general hotline who told him to go online and file the appeal. The claimant filed the appeal on the Iowa Workforce Development's online portal.

The claimant filed an initial claim for benefits effective March 29, 2020. This benefit year expired on March 28, 2021. His weekly benefit amount was \$481.00.

Claimant was paid his maximum benefit amount during this claim year.

Claimant filed an initial claim in a subsequent benefit year effective March 28, 2021. Claimant has not worked and earned insured wages since filing his initial claim for benefits effective March 28, 2021.

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.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant's failure to file an appeal within the appeal period was solely because of incorrect information received from an IWD customer service advisor. This delay was prompted by and perpetuated by the agency. See, Iowa Admin. Code r. 871-24.35(2). Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant has worked and earned sufficient wages to be eligible for benefits in a second benefit year. The administrative law judge concludes that the claimant has

not been paid sufficient wages to be eligible for unemployment insurance benefits in a second benefit year. Benefits are denied effective March 28, 2021.

Iowa Code § 96.4(4) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "b" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

The claimant failed to work in and be paid wages for insured work totaling at least eight times his weekly benefit amount, as a condition to receiving benefits in a subsequent benefit year. As such, benefits are denied.

DECISION:

Claimant's appeal is timely.

The April 9, 2021 (reference 02) decision is affirmed. Claimant has not worked in and been paid wages for insured work totaling at least eight times his weekly benefit amount of the previous claim year to be eligible for benefits in a subsequent benefit year. Benefits are denied effective March 28, 2021.

If claimant does earn eight times the prior claim year's weekly benefit amount in insured wages he may present evidence of that to Iowa Workforce Development to determine eligibility.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

August 30, 2021
Decision Dated and Mailed

cs/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.