

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

MARILYN M MOON
Claimant

APPEAL 22A-UI-14067-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/29/22
Claimant: Appellant (2)**

Iowa Code § 96.4(4) - Eligibility of Benefits - Second Benefit Year

STATEMENT OF THE CASE:

Ms. Marilyn Moon, claimant/appellant, filed an appeal from the June 13, 2022, (reference 01) decision that denied regular benefits effective 05/29/22, based on an Agency determination that the claimant did not meet the eight-times-weekly-benefit-amount minimum earnings requirement and therefore was not monetarily eligible for benefits in a second benefit year. After due notice was issued, a hearing was held on July 29, 2022, at 9:00AM. The department did not participate. Claimant personally participated. Judicial notice was taken of the administrative record, including claimant's appeal and attachments (pay stubs), DBIN, DBRO, and WAGE.

ISSUE:

Has the claimant worked and earned sufficient wages (the eight-times weekly benefit amount earnings requirement) to be monetarily eligible for benefits in a second benefit year?

FINDINGS OF FACT:

Having reviewed the evidence in the record and heard the testimony, the undersigned finds:

The claimant established an original claim for benefits that was effective 05/23/21. Iowa Workforce Development (IWD) set the weekly benefit amount at \$322.00. Eight times \$322.00 is \$2,576.00. The claimant received benefits in connection with the claim. The benefit year that began for the claimant on 05/23/21 expired on 05/22/22. The claimant established a new claim year that was effective 05/29/22. For the original claim date of 05/23/21, claimant last worked 05/13/21. For the original claim date of 05/26/21, claimant last worked May 11, 2022.

Claimant testified she had unreported wages from Industrial Staffing Services and had worked with the employer and IWD to get the wages into the system and believes those wages are now in the system. Per the WAGE record, it shows that claimant was paid \$2,893.00 in wages from Industrial Staffing Services in the first quarter of 2022. \$2,893.00 exceeds the eight times figure of \$2,576.00.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant is eligible for benefits in the 2nd benefit year.

Iowa Code section 96.4(4)(a-c) 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.

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. [Emphasis added.]

Claimant has met the eight-times-weekly-benefit-amount minimum earnings requirement needed to qualify for benefits as of 05/29/22 as set forth in the fact-finding section.

DECISION:

The June 13, 2022, (reference 01) decision that denied regular benefits effective 05/29/22 due to claimant not meeting the eight-times-weekly-benefit-amount minimum earnings requirement and therefore was not monetarily eligible for benefits in a second benefit year is **REVERSED**.



Darrin T. Hamilton
Administrative Law Judge

December 1, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.