

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASON SALMON
Claimant

APPEAL 21A-UI-00520-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/18/19
Claimant: Appellant (1)**

Iowa Code §96.6(2) - Timeliness of Appeal
PL 116-136 Section 2107 – Pandemic Emergency Unemployment Compensation

STATEMENT OF THE CASE:

Jason Salmon (claimant) appealed a representative's August 28, 2020, decision (reference 01) that concluded the claimant was not eligible to receive Pandemic Emergency Unemployment Compensation. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was scheduled to be held on February 13, 2021. The claimant participated personally.

Exhibit D-1 was received into evidence. The administrative law judge took official notice of the administrative file. 20A-UI-00520.S1, 20A-UI-00521.S1, and 20A-UI-00522.S1 were heard at the same time.

ISSUES:

The issue is whether the claimant is eligible to receive Pandemic Emergency Unemployment Compensation.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits in Iowa with an effective date of August 18, 2019. His weekly benefit amount was determined to be \$500.00. The claimant exhausted his maximum benefit amount the week ending July 18, 2020. His benefit year ended August 16, 2020. His base period of employment was from the second quarter of 2018, through first quarter of 2019. The claimant's maximum benefit amount for his August 18, 2019 original claim was \$8,890.50. He filed weekly claims from November 10, 2019, through July 18, 2020, and exhausted his maximum benefit amount during those weeks.

On July 22, 2020, the department (IWD), issued the claimant a letter of eligibility for Pandemic Emergency Unemployment Compensation. He received \$2,000.00 in Pandemic Emergency Unemployment Compensation for the four weeks ending August 15, 2020, and \$600.00 in Federal Pandemic Unemployment Compensation for the one week ending July 25, 2020. Subsequently, IWD discovered the claimant was monetarily eligible for unemployment insurance benefits in other states. On August 28, 2020 the department (IWD), issued the

claimant a decision denying eligibility for Pandemic Emergency Unemployment Compensation based on his monetary eligibility for benefits in other states. The claimant is eligible for unemployment insurance benefits in Minnesota.

A disqualification decision was mailed to claimant's last known address of record on August 28, 2020. He did not receive the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by September 8, 2020. The appeal was not filed until November 25, 2020, which is after the date the claimant received overpayment decisions.

REASONING AND CONCLUSIONS OF LAW:

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 did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant timely appealed the overpayment decisions, which was the first notice of disqualification. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant is eligible for Pandemic Emergency Unemployment Compensation.

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(2) PROVISIONS OF AGREEMENT. —

Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law **or any other State unemployment compensation law** or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

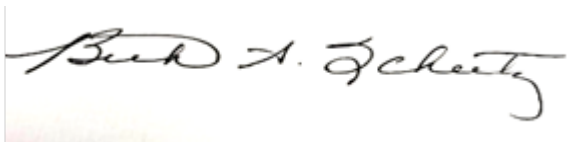
(D) are able to work, available to work, and actively seeking work.

(emphasis added).

In this case, the claimant exhausted his regular unemployment insurance benefits funded by the State of Iowa on July 18, 2020. The claimant therefore meets the requirements of PL 116-136 Section 2107(2)(A); however, **does not** meet the requirements of PL 116-136 Section 2107(2)(B) because he qualifies for regular unemployment insurance benefits in Minnesota. Pandemic Emergency Unemployment Compensation benefits are denied effective July 19, 2020.

DECISION:

The August 28, 2020, (reference 01) unemployment insurance decision is affirmed. The appeal was timely. The claimant is not eligible to receive Pandemic Emergency Unemployment Compensation because he is monetarily eligible to receive unemployment insurance benefits in Minnesota. Pandemic Emergency Unemployment Compensation benefits are denied effective July 19, 2020.



Beth A. Scheetz
Administrative Law Judge
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February 25, 2021
Decision Dated and Mailed

bas/scn