

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KOREEN K RAYL**  
Claimant

**APPEAL 22A-UI-00377-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 08/08/21  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Eligibility – Able to, available for, work search  
Iowa Admin. Code r. 871-24.2(1)e – Eligibility – A&A – Failure to report  
Iowa Admin. Code r. 871-24.23(11) – Eligibility – A&A – Failure to report  
Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Admin. Code r. 871-24.35 – Filing

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the November 18, 2021 (reference 04) unemployment insurance decision that denied benefits effective November 14, 2021 finding claimant failed to report as directed. The parties were properly notified of the hearing. A telephone hearing was held on January 25, 2022. Claimant participated. Claimant's Exhibits A through D were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant filed a timely appeal.  
Whether claimant is able to and available for work.  
Whether claimant failed to report as directed by a department representative.

**FINDINGS OF FACT:**

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

The Unemployment Insurance Decision was mailed to claimant at the correct address on November 18, 2021. Claimant received the decision on November 28, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by November 28, 2021. However, if the due date falls on a Saturday, Sunday or legal holiday, the appeal period is extended to the next working day. November 28, 2021 was a Sunday; therefore, the deadline was extended to Monday, November 29, 2021.

Claimant contacted IWD immediately upon receiving the decision, because she did not understand the decision or the appeal instructions. Claimant left voice mail messages seeking assistance but received no response from IWD. On December 1, 2021, claimant went to her local IowaWorks office to speak with a representative and was advised to file an appeal.

Claimant appealed the decision online on December 1, 2021. IWD received claimant's appeal on December 1, 2021.

The decision issued on November 18, 2021 (reference 04) states "Our records indicate you were mailed a notice to report to Iowa Workforce Development. Since you did not report, you do not meet the availability requirements of the law. Benefits are denied as of 11/14/21." Claimant did not receive a notice to report. Claimant had no barriers to employment since November 14, 2021.

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

For the reasons that follow, the administrative law judge concludes claimant's appeal was timely.

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). The question in this case thus becomes whether the appellant was deprived of a

reasonable opportunity to assert an appeal in a timely fashion? *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

Claimant's delay was due to agency error. Therefore, claimant's appeal is considered timely.

The next issue to be determined is whether claimant was able to and available for work or failed to report as directed by a department representative. For the reasons that follow, the administrative law judge concludes claimant has established a good cause reason for having failed to report as directed. Benefits are allowed.

Iowa Code section 96.4(3) provides:

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

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.2(1)e provides:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

1. Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

Iowa Admin. Code r. 871-24.23(11) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

11. Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

Claimant did not receive a notice to report, which constitutes a good cause reason for failing to report as directed. Claimant is able to and available for work. Benefits are allowed provided claimant is otherwise eligible.

**DECISION:**

The appeal is timely. The November 18, 2021 (reference 04) unemployment insurance decision is reversed. Claimant is able to and available for work. Benefits are allowed provided claimant is otherwise eligible.



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

February 17, 2022

Decision Dated and Mailed

acw/ACW