

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHELLE A MAYNES**  
Claimant

**MERCY MEDICAL CENTER**  
Employer

**APPEAL 20A-UI-09675-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
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 July 13, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on September 28, 2020, at 1:00 p.m. Claimant participated. Employer participated through Amanda Felton, Human Resources Manager, and Kristen Meese, Manager of Inpatient Nursing. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant's separation was a discharge for disqualifying job-related misconduct or a voluntary quit without good cause attributable to employer.

Whether claimant is able to and available for work.

Whether claimant filed a timely appeal.

**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 July 13, 2020. Claimant received the decision the following week. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by July 23, 2020. Claimant appealed the decision online on August 14, 2020. The appeal was received by Iowa Workforce Development on August 14, 2020.

On July 14, 2020, claimant spoke with an Iowa Workforce Development (IWD) employee about her separation from employment with Mercy Medical Center. The employee told claimant that a decision would be made and mailed to her within three weeks. When claimant received the decision regarding her separation, she noted the decision was dated July 13, 2020. Claimant disregarded the decision, because it predated her conversation with IWD. Claimant expected to receive a decision dated July 14, 2020 or later. Claimant did not contact IWD to inquire whether the July 13, 2020 decision was valid, based upon her call on July 14, 2020, or ask whether she

still needed to appeal the July 13, 2020 decision. When claimant did not receive another decision, she contacted IWD and was advised to file an appeal.

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

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

Claimant received the decision prior to the deadline and did not file her appeal for 22 days after the deadline. Claimant's delay in submitting her appeal was not due to any agency error or misinformation or delay of the United States Postal Service. The appeal was not timely. Therefore, the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the appeal.

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**DECISION:**

Claimant's appeal was not timely. The July 13, 2020 (reference 01) unemployment insurance decision is affirmed. The administrative law judge has no authority to change the decision of the representative.



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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October 5, 2020  
Decision Dated and Mailed

acw/scn