

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HELENA M MATLOCK
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 23A-UI-06078-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/23/23
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.6(2) – Timely Appeal

STATEMENT OF THE CASE:

Helena M. Matlock, the claimant/appellant,¹ filed an appeal from the Iowa Workforce Development May 24, 2023 (reference 04) unemployment insurance (UI) decision. The decision allowed Ms. Matlock REGULAR (state) UI benefits as of May 21, 2023 because IWD concluded she had been disqualified from receiving REGULAR (state) UI benefits since she had not provided proof of her identity, but later she did so. On June 20, 2023, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Ms. Matlock for a hearing scheduled for July 6, 2023. The undersigned administrative law judge held a telephone hearing on July 6, 2023. Ms. Matlock participated personally. The undersigned took official notice of the administrative record.

ISSUES:

Did Ms. Matlock file her appeal on time?
Did Ms. Matlock fail to verify her identity?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the undersigned finds: IWD mailed the May 24, 2023, (reference 04) UI decision to Ms. Matlock at her correct address. The UI decision states that it becomes final unless an appeal is postmarked or received by the IWD Appeals Section by Saturday, June 3, 2023. If the appeal deadline falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. So, the appeal deadline was extended to Monday, June 5, 2023. Ms. Matlock did not receive the decision in the mail.

IWD had mailed Ms. Matlock a letter on April 28, 2023. The letter told Ms. Matlock that IWD was not able to verify her identity and told her that her benefits may be delayed or denied if she did not provide proof of her identity by May 4, 2023. The letter also told Ms. Matlock that she could submit her documents online, by mail, or in-person at an IWD local office. Ms. Matlock received this letter in the mail on Monday, June 5.

¹ Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

The next day, Ms. Matlock went to the IWD office and showed the IWD representative the ID she had in her wallet. The IWD representative told Ms. Matlock she had to provide additional identity verification documents. Ms. Matlock did so.

Ms. Matlock filed her weekly UI claim on Saturday, June 10 but she did not receive any benefits. On Tuesday, June 12, Ms. Matlock spoke with an IWD representative again to figure out why she was not receiving benefits even though she had provided her ID. The representative told Ms. Matlock that she could file an appeal. Ms. Matlock filed an appeal online on June 13, 2023. The DIAL UI Appeals Bureau received Ms. Matlock's appeal on June 13, 2023.

The undersigned further finds Ms. Matlock filed her initial UI claim effective April 23, 2023. Ms. Matlock filed her UI claim in-person at the IWD office. The IWD representative did not ask Ms. Matlock for identity verification documents. Ms. Matlock provided identity verification documents to IWD one day after she received the April 28 letter from IWD.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Ms. Matlock filed her appeal of the May 24, 2023 (reference 04) UI decision on time.

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:

2. 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:
 - (2) 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 undersigned has no authority to change the decision of a representative if a timely appeal is not filed.² Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid.³

Ms. Matlock did not receive the May 24, 2023 (reference 04) UI decision before the appeal deadline so she could not have filed an appeal by the deadline. The notice provision of the decision was invalid. Ms. Matlock filed her appeal within ten days of when she received the April 28 letter from IWD. Ms. Matlock filed her appeal on time.

The undersigned further concludes Ms. Matlock verified her identity as soon as she knew her identity needed to be verified.

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 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, 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:

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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

Iowa Admin. Code r. 871-24.3 provides:

A claim will not become valid until the identity of the claimant has been verified by the department.

² *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979).

³ *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).

- (1) Upon the filing of a claim, notification shall be provided to the claimant if the claimant's identity was not verified.
- (2) If the agency is unable to verify the claimant's identity in the claim application, the claimant must provide approved documents. Approved documents must include at least one document containing a social security number. The department shall determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.
- (3) The claimant's identity will not be considered verified until approved documents have been provided. The claim shall remain locked from issuance of benefits until the claimant has provided the approved documents to verify identity.
- (4) After filing a claim application, the claimant shall not be eligible for benefits for any week until approved documents are provided to verify identity.
- (5) Approved documents must be provided or postmarked by Saturday at 11:59 p.m. of the week in which the approved documentation is due, and the claim shall be unlocked for all weeks following the most recent effective date of the claim application.
- (6) If required documents are provided in any subsequent weeks following the due date, the claimant shall be eligible, provided there are no other outstanding issues with the claim, as of the Sunday of the week the claimant's identity was verified.

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.

In this case, Ms. Matlock did not receive the April 28 letter before the May 4 deadline. When Ms. Matlock did receive the letter, she contacted IWD and verified her identity within a day. Ms. Matlock verified her identity as soon as she knew she needed to do so. UI benefits are allowed as of the effective date of Mr. Matlock's claim, April 23, 2023, as long as no other decision denies her UI benefits.

DECISION:

Ms. Matlock filed her appeal of the May 24, 2023 (reference 04) UI decision on time. The May 24, 2023 (reference 04) UI decision is MODIFIED IN FAVOR OF THE APPELLANT, Ms. Matlock. Ms. Matlock verified her identity as soon as she knew she needed to do so. Ms. Matlock is eligible for UI benefits as of April 23, 2023 as long as no other decision denies her UI benefits.



Daniel Zeno
Administrative Law Judge

July 11, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this 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.