

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMIE CHAPMAN
Claimant

APPEAL 22A-UI-11384-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/15/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work / Work Search
Iowa Admin. Code r. 871-24.22(3) – Earnest and Active Search for Work

STATEMENT OF THE CASE:

On March 12, 2022, claimant Jamie Chapman filed an appeal from the January 12, 2022 (reference 03) unemployment insurance decision that denied benefits for the week ending November 20, 2021, based on a failure to make sufficient work searches. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Wednesday, May 25, 2022. Appeal numbers 22A-UI-07819-LJ-T and 22A-UI-11384-LJ-T were heard together and created one record. The claimant, Jamie Chapman, participated. Department's Exhibits D-1, D-2, and D-3 were marked and admitted into the record. The administrative law judge took official notice of the administrative record. D-1 and D-2 and D-3. The hearing record was left open to allow the claimant to search her records at home for a copy of the January 12, 2022 (reference 03) decision. The results of that search were reported back in an email that has been marked and admitted as exhibit D-4.

ISSUE:

Is the appeal timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant opened her claim for unemployment insurance ("UI") benefits. Subsequently, she filed a weekly continued claim for UI benefits for the one week ending November 20, 2021. Claimant made more than two employment contacts that week. She made an initial application with Cetera Financial, her current employer. Additionally, claimant went on interviews with two employers in the financial and insurance industry. Claimant did not understand at the time she filed her weekly continued claim that interviews "counted" as work searches, so she only reported the actual job application she made.

The unemployment insurance decision was mailed to the claimant's address of record on January 12, 2022. The claimant has no record of receiving that decision. She searched her file of Iowa Workforce Development documents and could not locate the decision. The first notice

of disqualification that the claimant received was the overpayment decision dated March 9, 2022. The appeal was sent immediately after receipt of that decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant made an appropriate work search for the week ending November 20, 2021.

The first issue to be considered in this appeal is whether the appeal is timely. The administrative law judge determines it is.

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:

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).

In this case, 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 Emp’t Sec. Comm’n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant timely appealed the overpayment decision, which was the first notice of disqualification. Therefore, the appeal shall be accepted as timely.

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. 871-24.23(28) provides:

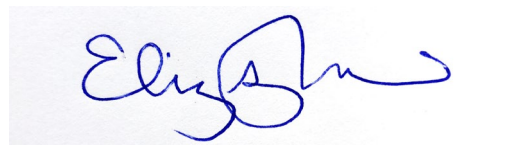
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

In this case, claimant mistakenly reported that she did not make two work searches for the week ending November 20, 2021, because she did not know that interviews qualified as work searches. In actuality, claimant made three work searches that week. The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending November 20, 2021. Accordingly, benefits are allowed.

DECISION:

The January 12, 2022 (reference 03) unemployment insurance decision is reversed. Claimant made an active and earnest search for work for the week ending November 20, 2021. Benefits are allowed for that week.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

May 27, 2022
Decision Dated and Mailed

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