

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACQUELINE L GONNER
Claimant

APPEAL 22A-UI-10410-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/29/20
Claimant: Appellant (2)

PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation
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 March 31, 2022 (reference 05) unemployment insurance decision that found claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 9, 2022. Claimant participated. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant filed a timely appeal.
Whether claimant was overpaid FPUC benefits.

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 of record on March 31, 2022. Claimant did not receive the decision. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by April 10, 2022. Claimant learned of the decision on April 23, 2022. Claimant appealed the decisions online on April 25, 2022. Iowa Workforce Development (IWD) received the appeal on April 25, 2022.

Claimant filed for and has received FPUC benefits in the gross amount of \$5,400.00 for the nine-week period between April 5, 2020 and June 6, 2020.

On February 5, 2021, IWD issued a decision (reference 01) that allowed claimant unemployment insurance (UI) benefits effective April 5, 2020 finding claimant was on a short-term layoff. That decision remains in effect.

On February 5, 2021, IWD issued a decision (reference 02) that denied UI benefits effective May 31, 2020 finding claimant was not eligible for benefits between successive academic years. That decision has been modified in claimant's favor on appeal to allow UI benefits until June 6, 2020 (see appeal 22A-UI-10407-AW-T).

In summary, claimant is eligible for UI benefits from April 5, 2020 through June 6, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

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 did not receive the decision until after the appeal deadline. Therefore, the appeal notice provisions were invalid. Claimant did not have a reasonable opportunity to file a timely appeal. Claimant filed her appeal promptly upon learning of the decision. Claimant's appeal is considered timely.

The next issue to be determined is whether claimant was overpaid FPUC benefits. For the reasons that follow, the administrative law judge concludes:

PL 116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual; and

(B) such repayment would be contrary to equity and good conscience.

Claimant is eligible for UI benefits from April 5, 2020 through June 6, 2020. Because claimant was eligible for UI benefits, claimant was entitled to receive FPUC benefits. The administrative law judge concludes that claimant was not overpaid FPUC benefits.

DECISION:

The appeal is timely. The March 31, 2022 (reference 05) unemployment insurance decision is reversed. Claimant was not overpaid FPUC benefits.



Adrienne C. Williamson
Administrative Law Judge
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June 21, 2022
Decision Dated and Mailed

acw/ACW