

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DERRIS D DICKEY**

Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 21A-UI-18048-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/24/19  
Claimant: Appellant (1)**

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PL 116-136, Sec. 2107 – Federal Pandemic Emergency Unemployment Compensation  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On August 16, 2021, claimant/appellant appealed the August 3, 2021, (reference 04) decision that concluded the claimant was overpaid Federal Pandemic Emergency Unemployment Compensation (“PEUC”) benefits in the amount of \$7,085.00 for the thirteen-week period ending August 22, 2020. A telephonic hearing was held at 2:00 p.m. on October 11, 2021. Appeal numbers 21A-UI-18047-CS-T and 21A-UI-18049-CS-T were heard together and created one record. The claimant participated. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Was claimant’s appeal timely?

Is the claimant overpaid PEUC benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on August 3, 2021. The appellant did not receive the decision until August 16, 2021. The appeal was sent immediately after receipt of that decision.

Claimant filed for and has received PEUC benefits in the gross amount of \$7,085.00 for the 13-week period ending August 22, 2020. On August 3, 2021, Iowa Workforce Development (IWD) issued a decision (reference 04) that found claimant was ineligible for PEUC benefits. That decision has been affirmed. See 21A-UI-18047-CS-T.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appellant did not have an opportunity to appeal the unemployment insurance decision because the decision was not received in a timely fashion. Without timely 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 appellant filed the appeal within the day of receipt. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant has been overpaid PEUC benefits.

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(2) PROVISIONS OF AGREEMENT. —

Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(D) are able to work, available to work, and actively seeking work.

(emphasis added).

(e) FRAUD AND OVERPAYMENTS.—

...

(2) REPAYMENT.—In the case of individuals who have received amounts of pandemic emergency unemployment compensation under this section to which they were not entitled, the State shall require such individuals to repay the amounts of such pandemic emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such pandemic emergency unemployment compensation was without fault on the part of any such individual; and

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

The decision that denied claimant regular unemployment insurance benefits remains in effect. Because claimant is not eligible for UI benefits, claimant is not eligible for PEUC benefits. Therefore, claimant has received PEUC benefits to which they were not entitled. The administrative law judge concludes that claimant has been overpaid PEUC benefits in the amount outlined in the findings of fact above. Those benefits must be recovered in accordance with Iowa law.

**DECISION:**

Claimant's appeal is timely.

The August 3, 2021 (reference 04) decision is affirmed. Claimant has been overpaid PEUC benefits in the amount of \$7,085.00, which must be repaid.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive style with a horizontal line extending from the end of the name.

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Carly Smith  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

October 14, 2021  
Decision Dated and Mailed

cs/mh