

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALYSSA C DOWNING
Claimant

APPEAL 21A-UI-03829-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/10/21
Claimant: Appellant (1R)**

871 IAC 24.9(1)b – Timely Monetary Determination
Iowa Code § 96.3-4 – Determination of Benefits
Iowa Code § 96.4-4 – Eligibility for Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 21, 2021 monetary determination. After due notice was issued, a telephone hearing was held on March 18, 2021. Claimant participated. Claimant's Exhibits A-C were admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

The issue is whether the claimant filed a timely appeal to the monetary record, if so, whether the monetary determination is correct, and whether the claimant is monetarily eligible to receive unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits with an effective date of January 10, 2021. The claimant's base period of employment includes the fourth quarter of 2019 through the third quarter of 2020. The computation for the statewide average annual wage for insured work for the preceding calendar year in the high quarter was deemed to be \$1,700.00.

The November 4, 2020, indicated the claimant earned \$1,170.00 in the second quarter of 2020 and \$1,444.97 in the third quarter of 2020. Claimant worked for Sugar Daddy's between August 10 and December 20, 2020. Claimant provided a paystub from Brown Aces, Inc. d/b/a Sugar Daddy's showing gross earnings between November 30, 2020 and December 13, 2020, of \$495.55. She provided her 2020 W2 showing gross earnings from Sugar Daddy's for the year in the amount of \$4,250.06. Some of these earnings were not reflected on the monetary record because they occurred during the lag quarter. Claimant requested to use an alternate base period so the remainder of her wages from Sugar Daddy's will be included in the earnings calculations.

A corrected monetary record was mailed to the claimant's last known address of record on January 21, 2021. The claimant received the record. The record contained a warning that an appeal must be postmarked or received by the Appeals Section within ten days of the date of mailing. The appeal was filed January 25, 2021, which is within the ten-day appeal period.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.9(1)b provides:

Determination of Benefits Rights.

(1) Monetary determinations.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

Iowa Code section 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest. The director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section, "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Iowa Code section 96.4(4)a-b-c provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "b" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

An appeal of the monetary record must be made within ten days of the mailing date of the monetary record and contain specific grounds for objection. Claimant filed an appeal within the ten-day statutory period and the appeal is considered to be timely.

In order for a claimant to be eligible for unemployment insurance benefits, she must show that she has earned at least \$1,700.00 in her highest quarter in her base period and at least \$850.00 in another quarter in the base period. She must also show that she has been paid insured wages in her base period of at least 1.25 times the amount she received in insured wages in her highest quarter. Claimant has not shown this for the base period.

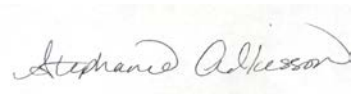
With the paystub and W2 the claimant has provided, may be eligible under an alternate base period that includes wages from the fourth quarter of 2020. This matter will be remanded for determination of claimant's benefit eligibility based on the alternative base period.

DECISION:

The January 21, 2021 monetary record is affirmed. The appeal in this case was timely. The claimant is not monetarily eligible for benefits, based on her wages from the standard base period. The claimant is not monetarily eligible to receive unemployment insurance benefits until such time as additional information is collected regarding her wages from her employer.

REMAND:

This matter is remanded for determination of the claimant's monetary eligibility based on an alternative base period including the fourth quarter of 2020.



Stephanie Adkisson
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March 22, 2021
Decision Dated and Mailed

sa/scn