

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAKOB L SHERADEN
Claimant

APPEAL NO: 21A-UI-24193-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/21/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 30, 2021, (reference 02) unemployment insurance decision that denied PEUC benefits in Iowa effective October 18, 2020. After proper notice, a telephone hearing was held together on December 28, 2021. The hearing was held with Appeals 21A-UI-24194-JC-T and 21A-UI-24195-JC-T. The claimant participated. Official notice of the administrative records was taken. Department Exhibit D-1 was admitted.

ISSUES:

Is the appeal timely?
Is the claimant eligible for PEUC benefits?

FINDINGS OF FACT:

Having heard the testimony and considered all of the evidence in the record, the administrative law judge finds: The claimant filed an initial claim for regular unemployment insurance benefits funded by the State of Iowa with an effective date of June 21, 2020. Claimant's monetary eligibility for benefits was based upon considering wages he earned in Iowa. Claimant's weekly benefit amount (WBA) was \$123.00. His maximum benefit amount (MBA) was \$2,007.50. Claimant filed for and exhausted her regular state benefits in Iowa during the week of October 17, 2020.

Claimant then received Pandemic Emergency Unemployment Compensation (PEUC) benefits beginning October 18, 2020.

Claimant's employment history includes working at Full Court Press from May 2019 until December 2019, and as a Disney World cast member from January 17, 2020 through March 18, 2020. Disney World paid claimant through the end of the month after his internship/employment ended due to the COVID-19 pandemic. Claimant worked in a temporary position for Hy-Vee Inc. from April 15, 2020 until June 19, 2020. He worked for the non-profit organization, Opportunity On Deck, from October to November 2020 and accepted full-time employment as a city planner effective February 22, 2021.

The United States Department of Labor issued operating instructions for the PEUC program. See Unemployment Insurance Program Letter No. 17-20 (April 10, 2020). The operating instructions state that in order to be eligible for PEUC, a claimant must have exhausted all rights to regular compensation under the applicable state or Federal law with respect to the applicable benefit year, have no rights to regular compensation with respect to a week under such law or any other state or Federal law, certify that he or she is not receiving unemployment compensation in Canada, and be able to and available for work. The operating instructions instruct state agencies to check at each quarter change if an individual has enough wages to establish a new benefit year in the State, in another State, or a combined wage claim.

Administrative records reflect that claimant may be monetarily eligible for regular state claim in Florida effective October 18, 2020, through a combined wage (CWC) claim.

An initial decision dated June 30, 2021 (reference 02) was mailed to claimant's address of record. The decision notified claimant he was not eligible for PEUC benefits in Iowa because he appeared to be monetarily eligible for benefits in Florida. The initial decision contained a warning that an appeal must be filed by July 10, 2021. Claimant did not receive the initial decision in the mail. Claimant's first notification of the disqualifying decision was when he received the October 21, 2021 overpayment decisions. Claimant filed his appeal on October 29, 2021 (See Department Exhibit 1).

REASONING AND CONCLUSIONS OF LAW:

The first issue is to address whether claimant filed a timely appeal.

Iowa law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. See Iowa Code § 96.6(2).

Iowa Admin. Code r. 871-24.35(2) provides:

Date of submission and extension of time for payments and notices.

(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.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v.*

Unempl. Comp. Bd. of Rev., 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

The record in this case shows that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. 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. Iowa Dep't of Job Serv.*, 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. Iowa Dep't of Job Serv.*, 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. Iowa Emp't Sec. Comm'n*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973).

Claimant in this case did not receive the initial decision and therefore did not have the opportunity to file an appeal within the prescribed period. 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). Upon notification of the disqualification through the overpayment decisions, the claimant filed a timely appeal. Therefore, his appeal is accepted as timely.

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for PEUC benefits in Iowa.

Section 2107 of the CARES Act created a new temporary federal program called Pandemic Emergency Unemployment Compensation (PEUC) that provides up to 13 additional weeks of benefits to individuals who have exhausted their regular unemployment compensation entitlement and also provides funding to states to administer the program.

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) FEDERAL-STATE AGREEMENTS. —

(1) IN GENERAL. — Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the "Secretary"). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(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).

The administrative law judge is sympathetic to the claimant's situation, and recognizes the complexity of dealing with multiple state agencies, wages being transferred to and from state claims, as well as the challenges associated with implementing the PEUC program in 2020-2021 in response to the COVID-19 pandemic.

As explained above, the operating instructions for the PEUC program instruct state agencies to check at each quarter change if an individual has enough wages to establish a new benefit year in the State, in another State, or a combined wage claim. Finally, the operating instructions direct states to advise a claimant who can establish a new benefit year or combined wage claim to file the claim as they will no longer qualify for PEUC.

In this case, claimant appears to be monetarily eligible for unemployment insurance benefits in Florida. That PEUC program does not provide that claimant must be allowed in the other state, as there are other reasons beyond monetary eligibility that a claimant may not be allowed benefits, even though they meet the monetary eligibility requirement. (For example, some states have a waiting week before claimants can begin receiving benefits, or if claimant earned wages in excess of her weekly benefit amount, she may not be eligible for a specific week.)

When it comes to unemployment insurance benefits, a claimant can file a claim in any state where they worked and earned insured wages. In this case, claimant worked and earned insured wages in Florida and may be eligible to file a claim there. The administrative law judge can certainly understand why claimant would rather pursue PEUC benefits in Iowa, but the federal law is clear claimant must exhaust all available state benefits before he is eligible for federal benefits.

DECISION:

The June 30, 2021 (reference 03) unemployment insurance decision is affirmed. The appeal is timely. The claimant is not eligible for Pandemic Emergency Unemployment Compensation effective October 18, 2020, due to being monetarily eligible in Florida with a combined wage claim.



Jennifer L. Beckman
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January 28, 2022
Decision Dated and Mailed

jlb/mh