

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOYCE CHAPMAN
Claimant

APPEAL NO. 21A-UI-12123-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On May 3, 2021, the claimant Joyce Chapman appealed the April 8, 2021, (reference 02) decision that concluded the claimant was overpaid regular unemployment insurance benefits in the amount of \$1,381.46 for the eight-week period ending July 25, 2020. A telephone hearing was held at 8:00 a.m. on Friday, July 23, 2021, pursuant to due notice. Appeals 21A-UI-12123-LJ-T, 21A-UI-12125-LJ-T, and 21A-UI-12126-LJ-T were heard together and created one record. The claimant, Joyce Chapman, participated. No exhibits were offered or admitted. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant overpaid regular unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed for and has received regular unemployment insurance benefits in the gross amount of \$1,381.46 for the eight-week period ending July 25, 2020.

On November 23, 2020, Iowa Workforce Development (IWD) issued a decision (reference 01) that disqualified claimant from receiving regular unemployment insurance benefits. That decision has been affirmed. See 21A-UI-01121-S1-T. Claimant then appealed to the Employment Appeal Board, who affirmed the administrative law judge's decision. See 21B-UI-01121. Claimant did not appeal that decision to district court.

Three overpayment decisions were mailed to claimant's last known address of record on April 8, 2021. Claimant believes she received the decisions. The decisions each contained a warning that an appeal must be postmarked or received by the Appeals Bureau by April 18, 2021. The appeal was not filed until May 3, 2021, which is after the date noticed on the overpayment decisions. Claimant offered no explanation for the delay in appealing the decisions.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant has been overpaid benefits for the period in question.

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 § 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). 00194 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 administrative law judge is not convinced that claimant received the overpayment decision at issue. Claimant went through numerous documents in her possession

during the hearing, and none of them seemed to be any of the three overpayment decisions on for hearing. 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). Therefore, the appeal shall be accepted as timely.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant has been overpaid regular unemployment insurance benefits in the amount of \$1,381.46 pursuant to Iowa Code § 96.3(7) as the disqualification decision that created the overpayment decision has been affirmed.

DECISION:

The April 8, 2021 (reference 02) decision is affirmed. Claimant has been overpaid regular unemployment insurance benefits in the amount of \$1,381.46, which must be repaid.



Elizabeth A. Johnson
Administrative Law Judge

July 29, 2021
Decision Dated and Mailed

lj/ol