

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAULA M STONE
Claimant

APPEAL 22A-UI-03002-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/29/19
Claimant: Appellant (6)**

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

STATEMENT OF THE CASE:

Claimant/appellant, Paula Stone, filed an appeal from the January 16, 2021, (reference 03) unemployment insurance decision that denied PEUC benefits effective July 5, 2020, because claimant would be monetarily eligible for regular benefits in Nebraska. After proper notice, a telephone hearing was conducted on March 1, 2022. Claimant participated personally. The following hearings were held together as part of a consolidated hearing: Appeals 22A-UI-03002-DH-T, 22A-UI-03003-DH-T, 22A-UI-03004-DH-T, 22A-UI-03005-DH-T, 22A-UI-03006-DH-T and 22A-UI-03007-DH-T. Judicial notice was taken of the administrative records.

ISSUES:

Is the appeal timely?
Is the claimant eligible for PEUC in Iowa?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the administrative law judge finds: The claimant filed a new claim for unemployment insurance benefits with an effective date of December 29, 2019. Claimant exhausted regular unemployment insurance benefits with the June 6, 2020 payment.

Claimant then received Pandemic Emergency Unemployment Compensation (PEUC) benefits beginning June 13, 2020. Claimant filed weekly claims for the 13-week period of June 13, 2020, through September 5, 2020.

Claimant did not do anything differently in making her weekly claims to receive PEUC benefits.

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 of 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.

Based upon claimant's job duties, she has earned wages in Nebraska and Iowa. When looking at wages for a claim effective December 29, 2019 (after claimant exhausted regular state benefits in Iowa), administrative records reflect the claimant had wages in Iowa, but also wages in Nebraska. (See IBIQ). Claimant acknowledged performing work in Iowa and Nebraska. IWD determined claimant would be monetarily eligible in the state of Nebraska for regular benefits if she combined those wages and wages earned in Iowa were transferred to Nebraska. This is called a combined wage claim (CWC).

An initial decision (reference 03) was mailed to the claimant/appellant's address of record on January 16, 2021. The decision contained a warning that an appeal must be filed by January 27, 2021. The decision also directed the appellant to call the customer service line for assistance. Appellant did receive the decision within the appeal period, receiving it either January 19 or 20, 2021. Appellant filed the appeal on November 3, 2021. The appeal was delayed because when claimant received the notice, she didn't think much of it and it was only when she started to receive the overpayment notices that looked at all the notices she had received.

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 not.

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:

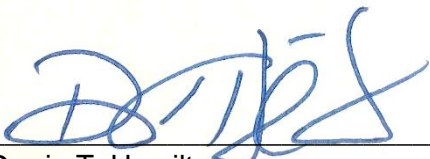
2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission 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).

Appellant timely received the decision in the mail and therefore had an opportunity to file an appeal prior to the appeal deadline. Appellant's delay was not due to an error or misinformation from the Department or due to delay or other action of the United States Postal Service. No other good cause reason has been established for the delay. Claimant not understanding the decision and not addressing it until overpayment notices were also received is not good cause. Claimant's appeal was not filed on time and the administrative law judge lacks jurisdiction to decide the other issue in this matter.

DECISION:

The January 16, 2021, (reference 03) unemployment insurance decision that denied PEUC benefits effective July 5, 2020, because claimant would be monetarily eligible for regular benefits in Nebraska remains in effect as the appeal is not timely, and the appeal is **DISMISSED**.



Darrin T. Hamilton
Administrative Law Judge

March 24, 2022
Decision Dated and Mailed

dh/mh