

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRAIG S MAFFIA
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-12806-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On May 20, 2021, claimant Craig S. Maffia filed an appeal from the May 7, 2021 (reference 08) unemployment insurance decision that denied Federal Pandemic Emergency Unemployment Compensation benefits effective February 28, 2021 because he would be monetarily eligible for regular unemployment insurance benefits in the State of Nebraska. The claimant was properly notified of the hearing. A telephone hearing was held at 9:30 a.m. on Saturday, July 24, 2021. The claimant, Craig S. Maffia, participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Is the appeal timely?

Is the claimant eligible for Federal Pandemic Emergency Unemployment Compensation?

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 April 5, 2020. His weekly benefit amount was \$500.00. His base period begins January 1, 2019 and ends December 31, 2019. Claimant's maximum benefit amount for his April 5, 2020 original claim is \$7,912.96. He filed weekly continued claims from the week ending April 11, 2020 through the week ending February 27, 2021 and exhausted his maximum benefit amount during those weeks.

Claimant's base period includes wages from Interstates, Inc. (account number 042517) in the first quarter of 2019. Claimant's administrative records establish that his claim is listed in Group Code 5.

A review of agency records shows that claimant has wages in the states of Colorado, Nebraska, and South Dakota. Claimant has a claim for unemployment insurance benefits in the state of Nebraska.

The unemployment insurance decision was mailed to the claimant's address of record on May 7, 2021. The appellant did not receive the decision. The first notice of disqualification was communication with IWD sometime in the second or third week of May. The appeal was sent within ten days after that communication.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant is not eligible for Federal Pandemic Emergency Unemployment Compensation at this time because he is monetarily eligible for regular unemployment insurance benefits in the State of Nebraska. He has a current claim for unemployment insurance benefits in that state.

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).

Here the claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. 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). The claimant filed an appeal within a reasonable period of time after discovering the disqualification. Therefore, the appeal shall be accepted as timely.

The next issue is whether claimant is eligible for federal Pandemic Emergency Unemployment Compensation. 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).

Claimant's administrative records reflect that he is monetarily eligible for regular unemployment insurance benefits in the State of Nebraska. Therefore, claimant does not meet the eligibility requirements for Pandemic Emergency Unemployment Compensation at this time. Pandemic Emergency Unemployment Compensation benefits are denied effective February 28, 2021.

DECISION:

The May 7, 2021 (reference 08) unemployment insurance decision is affirmed. The claimant is not eligible for Pandemic Emergency Unemployment Compensation effective February 28, 2021.



Elizabeth A. Johnson
Administrative Law Judge

July 30, 2021
Decision Dated and Mailed

lj/scn