

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PATRICE E RUNYAN
Claimant

CRESTVIEW NURSING & REHABILITATION
Employer

APPEAL 22A-UI-04155-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code §96.6(2) – Timely Appeal
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Patrice E Runyan, the claimant/appellant, filed an appeal from the January 19, 2021 (reference 01) unemployment insurance (UI) decision that denied benefits as of April 12, 2020 because Ms. Runyan was not able to perform work due to illness. The parties were properly notified about the hearing. A telephone hearing was held on March 17, 2022. Ms. Runyan participated personally. The employer participated through Stacy Goepfert, administrator, and Natalie Olds, Personnel Planners Inc hearing representative. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Ms. Runyan's appeal filed on time?
Is Ms. Runyan able to and available for work?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Runyan at the correct address on January 19, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by January 29, 2021.

Ms. Runyan received the decision on, or about, February 1. Ms. Runyan called IWD on February 3. The IWD representative told Ms. Runyan about Pandemic Unemployment Assistance (PUA) benefits, which were benefits designed for people not eligible for REGULAR (state) UI benefits but whose employment was impacted by COVID-19. Ms. Runyan applied for PUA benefits on February 7. On February 15, IWD approved Ms. Runyan for PUA benefits effective November 1, 2020.

IWD issued two additional decisions finding Ms. Runyan was overpaid REGULAR UI benefits, and Federal Pandemic Unemployment Compensation (FPUC) benefits. Those decisions were dated October 22, 2021, and October 21, 2021, respectively. Ms. Runyan received those decisions in the mail. Ms. Runyan called IWD on October 28. The representative told Ms.

Runyan to not worry about those decisions because IWD would figure out what else needed to be done. On December 7, Ms. Runyan received another letter for IWD about the overpayments. Ms. Runyan called IWD, and the representative told her to check her bank statements. Ms. Runyan did so and communicated with the representative several times via email. On January 31, 2022, Ms. Runyan talked with IWD again. The representative told Ms. Runyan about her appeal rights. Ms. Runyan filed an appeal via fax on February 8, 2022. The appeal was received by Iowa Workforce Development on February 8, 2022. IWD set up appeals for the reference 01 and two overpayment decisions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Runyan's appeal of the reference 01 decision was not filed on time.

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).

Ms. Runyan received the reference 01 decision after the deadline and, therefore, could not have filed an appeal prior to the appeal deadline. The notice provision of the decision was invalid. At that time, Ms. Runyan, understandably, applied for PUA benefits, instead of filing an appeal. Ms. Runyan's delay in filing her appeal 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 in filing her appeal before the deadline. Ms. Runyan's appeal of the reference 01 decision was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

Ms. Runyan's appeal of the reference 01 decision was not filed on time. The January 19, 2021, (reference 01) decision is AFFIRMED.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 29, 2022
Decision Dated and Mailed

dz/mh

NOTE TO MS. RUNYAN:

- You are eligible for PUA benefits as of November 1, 2020. This decision finds you are not eligible for REGULAR (state) UI benefits as of April 12, 2020. You already received REGULAR UI benefits for 4 weeks between April 12, 2020 and May 9, 2020.
- If you were unemployed for reasons related to COVID-19 from April 12, 2020 through May 9, 2020, you may qualify for Pandemic Unemployment Assistance (PUA) benefits for those weeks. **You must apply for PUA benefits to determine your eligibility under the program.** To apply for PUA benefits,
 - First go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals>.
 - Go to the "WHAT TO EXPECT FROM THE HEARING" section.
 - Go to the last two sentences in that section.
 - The PUA application link is at the end of the second-to-last sentence of the section.
 - The reference number/authorization is the pin number you used for the March 4, 2022 appeal hearing: 104155.
- **If IWD finds you eligible for PUA benefits, you can use the PUA benefits to pay off the REGULAR UI overpayment.**
- **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you've received so far.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **But you can still apply for PUA benefits at the link above if you were unemployed for reasons related to COVID-19 between February 2, 2020, and June 12, 2021.**