

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MATT H INBODY
Claimant

APPEAL NO: 13A-UI-13174-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/29/13

Claimant: Appellant (1)

Iowa Code § 96.3(4) – Monetary Determination
Iowa Code § 96.(2) – Timeliness of Appeal

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a November 12, 2013 corrected monetary determination that reduced his weekly benefit amount from \$439.00 to zero, reflecting the cancellation of the claim. This appeal was consolidated for hearing with one related appeal, 13A-UCFE-00051-DT. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the November 12, 2013 monetary determination is correct.

ISSUES:

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

Is the November 12, 2013 corrected monetary determination correct?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 29, 2013. Initially, the claimant was determined eligible to receive maximum weekly benefits of \$439.00. This was based on wage credits in his base period solely from federal service employment. The claimant subsequently cancelled his claim for unemployment insurance benefits when he was issued back pay for the two-week period of layoff.

The claimant did not appeal the November 12, 2013 corrected monetary determination because he agreed that he was cancelling his claim and would not be entitled to benefits. The claimant filed an appeal from a November 18, 2013 determination that held him overpaid \$869.00 in benefits from September 29 through October 12, 2013. The claimant mailed his appeal on November 27, 2013.

REASONING AND CONCLUSIONS OF LAW:

Unless the claimant or other interested party, after notification or within ten calendar days after a representative's determination is mailed to the parties' last-known address, files an appeal from the determination; it is final. Benefits shall then be paid or denied in accordance with the representative's determination. Iowa Code § 96.6(2). Pursuant to rules 871 IAC 26.2(96)(1) and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983).

The Iowa Supreme Court has ruled that appeals from unemployment insurance determinations must be filed within the time limit set by statute and the administrative law judge has no authority to review a determination if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant did not disagree with the November 12 corrected monetary determination because he agreed he would not be eligible for any amount of benefits due to the cancellation of his claim. In reality the Appeals Section set up an appeal on the monetary determination that the claimant did not disagree with.

If the claimant had appealed this decision, based on the wage credits from the claimant's federal service, he was eligible to receive \$439.00 per week or a total of \$2794.75. Iowa Code § 96.3(4).

DECISION:

The corrected November 12, 2013 monetary determination is affirmed. The claimant did not appeal the monetary determination because he agreed he would not be eligible to receive any unemployment insurance benefits due to the cancellation of his claim. The Appeals Section set up this appeal in error. Even if the claimant had appealed this decision, based on the wages he earned from Kohl's he was monetarily eligible to receive \$439.00 a week.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs