

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**REBECCA A DEMUTH**  
Claimant

**APPEAL NO. 12A-EUCU-00033-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/19/09**  
**Claimant: Appellant (5)**

Public Law 110-252 – Emergency Unemployment Compensation

**STATEMENT OF THE CASE:**

Rebecca A. DeMuth filed an appeal from an unemployment insurance decision dated December 1, 2011, reference 03, which denied “training extended benefits” on her July 9, 2009 state unemployment insurance claim upon a finding that she was monetarily eligible for state unemployment insurance benefits on a new state unemployment insurance claim as of that date. After due notice was issued, a telephone hearing was held February 23, 2012 on a consolidated record with appeals 12A-EUCU-00034-AT, 12A-EUCU-00059-AT, 12A-EUCU-00060-AT and 12A-EUCU-00084-AT. Ms. DeMuth participated on her own behalf. Exhibit D-1 was admitted into evidence. The administrative law judge takes official notice of agency benefit payment records, decision records and overpayment records.

**ISSUE:**

Is the claimant eligible for benefits based on her 2009 benefit year effective October 3, 2010?

**FINDINGS OF FACT:**

Rebecca A. DeMuth filed a claim for unemployment insurance benefits effective July 19, 2009. That benefit year ended July 18, 2010. Ms. DeMuth’s weekly benefit amount was \$374.00. She exhausted state benefits during the week of February 20, 2010 and then began receiving emergency unemployment compensation benefits the following week.

She was monetarily eligible for a new state unemployment insurance claim effective October 3, 2010. However, due to lower base period earnings, her weekly benefit amount was only \$204.00.

Ms. DeMuth filed her appeal by mail on January 26, 2012. The decision on appeal in the present case states that it would become final unless an appeal was postmarked by December 12, 2011 or received by the agency by that date. An agency employee at the Waterloo Workforce Center advised Ms. DeMuth not to file an appeal by that date but instead to wait for further paperwork.

**REASONING AND CONCLUSIONS OF LAW:**

The first question is whether the administrative law judge has jurisdiction to rule on the merits of this case. He concludes that he does. Although Iowa Code section 96.6-2 gives an individual only ten days from the date of a fact-finding decision to file an appeal, additional time may be granted if the delay is the fault of the United States Postal Service or Iowa Workforce Development. It seems unusual that an agency representative would advise a claimant not to file an appeal, but the decision on appeal in this case is unusual. The decision uses the term "training extended benefits." Nowhere in the record does it appear that Ms. DeMuth ever requested *training extension benefits*. That program, established in Iowa Code section 96.3-5-b, allows additional benefits under some circumstances to individuals who have exhausted both their state benefits and emergency unemployment compensation benefits. The terminology used in the decision on appeal is incorrect. The administrative law judge concludes that it created sufficient confusion as to justify a late appeal.

The Emergency Unemployment Compensation Program was established by Federal statute, Public Law 110-252. Congress provided that an individual is not eligible for emergency unemployment compensation benefits for any week that the individual is monetarily eligible for regular state unemployment insurance benefits. Since Ms. DeMuth was eligible for state unemployment insurance benefits effective October 3, 2010, she could not receive emergency unemployment compensation benefits as of that date based on her 2009 claim. The unfortunate affect of this for Ms. DeMuth is that her weekly benefit amount was reduced by \$170.00.

**DECISION:**

The unemployment insurance decision dated December 1, 2011, reference 03, is modified. The claimant is ineligible for emergency unemployment compensation benefits effective October 3, 2010 because she is monetarily eligible for regular state unemployment insurance benefits as of that date.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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