

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOEY C MORRIS
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 22A-UI-10402-AW-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/05/20
Claimant: Appellant (1)

PL 116-136, Sec. 2107 – Federal Pandemic Emergency Unemployment Compensation
Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 15, 2021 (reference 01) unemployment insurance decision that denied Pandemic Emergency Unemployment Compensation (PEUC) benefits in Iowa effective January 3, 2021. Claimant was properly notified of the hearing. A telephone hearing was held on June 9, 2022. Claimant participated and waived notice of the incorrect issue and legal citation on the hearing notice. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant filed a timely appeal.
Whether claimant was eligible for PEUC.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds:

The Unemployment Insurance Decision was mailed to claimant at the correct address on April 15, 2021. Claimant did not receive the decision. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by April 25, 2021. Claimant learned of the disqualifying decision when he received overpayment decision dated April 18, 2022. Claimant appealed the decisions online on April 25, 2022. Iowa Workforce Development (IWD) received the appeal on April 25, 2022.

Claimant filed an initial claim for regular unemployment insurance (UI) benefits in Iowa effective January 5, 2020 and an additional claim under that benefit year effective December 20, 2020. Claimant's benefit year ended January 3, 2021.

Claimant filed an initial claim for UI benefits for a second claim year in Iowa effective January 3, 2021. On April 15, 2021, IWD issued a decision (reference 01) finding claimant was not eligible for PEUC in Iowa because he was eligible for UI under a new claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

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). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion? *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

Claimant did not receive the decision. Therefore, the appeal notice provisions were invalid. Claimant did not have a reasonable opportunity to file a timely appeal. Claimant filed his appeal promptly upon learning of the decision denying benefits. Claimant’s appeal is considered timely.

The next issue to be determined is whether claimant is eligible for PEUC. For the reasons that follow, the administrative law judge concludes:

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.

The administrative record reflects that claimant was monetarily eligible for UI benefits in Iowa effective January 3, 2021. In order to be eligible for PEUC, a claimant cannot be eligible for UI in any state. Because claimant was eligible for UI in Iowa, claimant does not meet the eligibility requirements for PEUC effective January 3, 2021. Accordingly, PEUC is denied effective January 3, 2021.

DECISION:

The appeal is timely. The April 15, 2021 (reference 01) unemployment insurance decision that determined claimant was not eligible for PEUC is affirmed. PEUC is denied effective January 3, 2021.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

June 14, 2022
Decision Dated and Mailed

acw/ACW