

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANDRICKA L COFFER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-DUA-01434-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/01/20
Claimant: Appellant (1R)

Iowa Code § 96.6(2) – Timely Appeal
PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance

STATEMENT OF THE CASE:

Andricka L Coffer, the claimant/appellant, filed an appeal from the Iowa Workforce Development decision dated August 10, 2020 that determined she was eligible for Pandemic Unemployment Assistance (PUA) benefits. Ms. Coffe r was properly notified of the hearing. A telephone hearing was held on June 5, 2021. Ms. Coffe r participated and testified. Official notice was taken of the administrative record.

ISSUES:

Is Ms. Coffe r's appeal filed on time?
Is Ms. Coffe r eligible for Pandemic Unemployment Assistance benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Coffe r at the correct address on August 10, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by August 21, 2020. Ms. Coffe r received the decision before the deadline.

Ms. Coffe r's original claim for benefits was effective March 1, 2020. That claim year expired on February 28, 2021. Prior to February 28, 2021 Iowa Workforce Development mailed Ms. Coffe r a notice about her claim year ending. On February 28, 2021, Ms. Coffe r spoke with an Iowa Workforce Development representative about her claims. The representative told Ms. Coffe r that her second PUA application had been denied. As of the hearing date, Iowa Workforce Development had not yet issued a decision on Ms. Coffe r's second PUA application. Ms. Coffe r filed an appeal online on April 15, 2021. The appeal was received by Iowa Workforce Development on April 15, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Coffey's appeal 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. Coffey received the decision in the mail before the deadline and, therefore, could have filed an appeal prior to the appeal deadline. The notice provision of the decision was valid. Ms. Coffey'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 good cause reason has been established for the delay. Ms. Coffey's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

Ms. Coffey's appeal was not filed on time. The August 10, 2020 unemployment insurance decision allowing PUA benefits is affirmed.

REMAND:

The issue of whether Ms. Coffey is eligible for PUA benefits based on her second application is remanded to the Benefits Bureau of Iowa Workforce Development for investigation and a decision.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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June 21, 2021
Decision Dated and Mailed

dz/ol