

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY D STANLEY
Claimant

APPEAL NO. 12A-UI-01077-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/28/08
Claimant: Appellant (1)

Public Law 110-252, Title IV – Eligibility for Emergency Unemployment Compensation
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

Larry Stanley appealed an unemployment insurance decision dated October 4, 2011, reference 01, that concluded he was not eligible for Emergency Unemployment Compensation (EUC) effective September 26, 2010, because he was eligible for regular unemployment insurance benefits as of the date. A telephone hearing was held on February 23, 2012. Stanley participated in the hearing. Exhibit A-1 was admitted into evidence at the hearing.

ISSUES:

Did Stanley file a timely appeal?

Was he ineligible for EUC effective September 26, 2010, because he was eligible for regular unemployment insurance benefits?

FINDINGS OF FACT:

Larry Stanley filed a new claim for unemployment insurance benefits with an effective date of September 28, 2008. His weekly benefit amount was \$375.00. He received the maximum benefits available on that claimant effective April 11, 2009.

Effective April 12, 2009, Stanley started receiving EUC benefits. He continued receiving EUC on this claim until the end of his benefit year on September 27, 2009.

Since Stanley had been working and earning wages again starting in May 2009, he had enough wages for a second benefit year of regular benefits effective September 27, 2009. His weekly benefit amount was \$388.00 on this claim. He exhausted the regular benefits on this claim as of March 6, 2010.

Effective March 7, 2010, Stanley started receiving EUC benefits of \$388.00 per week on his second benefit year claim. He continued receiving EUC on this claim until July 24, 2010, when he exhausted those benefits. Since he still had a EUC balance available on his first benefit year claim, he was switched to that claim and started receiving EUC benefits of \$375.00 again on

that claim effective July 25, 2010. He received EUC benefits on the first benefit year claim through September 25, 2010.

On September 26, 2010, Stanley was required to file a third claim for regular unemployment insurance benefits to determine if he was eligible again. He was determined eligible for regular benefits with a weekly benefit amount of \$117.00 on a claim effective September 26, 2010.

Despite Stanley being determined eligible for regular unemployment insurance benefits, the Agency continued to pay him EUC benefits of \$375.00 per week from his first benefit year claim starting September 26, 2010. He was paid \$375.00 per week in EUC for the 17 weeks between September 26, 2010, and January 22, 2011. He received \$188.00 in EUC for the week ending January 29 (he reported wages during that week). He stopped filing after January 29 because he was working for Lennox Industries. He filed an additional claim for unemployment insurance benefits effective June 5, 2011, after being laid off from Lennox Industries. Again Stanley was paid EUC benefits from his first benefit year claim. He was paid \$375.00 per week in EUC for the 4 weeks between June 5 and July 2, 2011, and \$74 for the week ending July 9, 2011.

An unemployment insurance decision was mailed to Stanley's last-known address of record on October 4, 2011, that concluded he was ineligible for EUC because he was eligible for regular unemployment insurance benefits effective September 26, 2010. The decision stated it was final unless a written appeal was postmarked or received by the Appeals Bureau by October 15, 2011. An overpayment decision was mailed to Stanley's last-known address of record on October 6, 2011. The decision concluded he was overpaid \$8,412.00 for 23 weeks of benefits through the week ending July 9, 2011, and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by October 16, 2011.

Stanley never received the disqualification decision or overpayment decision. Later, he received bills requesting repayment of the overpayments in November and December 2010. Each time he took the bills to his local Workforce Development Center but no one could explain the basis for the overpayment. Finally, in December 2011, the claimant was directed to appeal the decision, which he did on December 30, 2011.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether Larry Stanley filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last-known address. Iowa Code § 96.6-2.

The next question is whether Stanley had a reasonable opportunity to file 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). The evidence establishes he did not have a reasonable opportunity to file a timely appeal because he never received the disqualification and overpayment decisions. Since he promptly appealed the decisions after being advised to do so, the appeals are deemed timely.

The Emergency Unemployment Compensation program was created by Public Law 110-252, Title VI. This temporary unemployment insurance program provides up to 13 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular unemployment compensation benefits. Sec. 4001 (c) (the program has been extended several times since to provide additional weeks of benefits). This means a claimant must exhaust any regular benefits available before receiving EUC.

The EUC Extension Act of 2010 provides an EUC Option may apply to claimants that meet certain criteria. Under the Act, a claimant may continue to collect EUC after they qualify for a new claim for regular unemployment insurance (UI) if:

- Their most recent paying benefit year ended after July 22, 2010.
 - They have EUC eligibility and an EUC balance on the most recent paying benefit year.
 - The weekly benefit amount (WBA) on the new claim is \$100.00 or 25 percent less than the WBA of the EUC.

It appears that the Agency mistakenly used this EUC Option A to allow Stanley to continue to receive the \$375.00 per week in EUC benefits from his first benefit year starting September 26, 2010. This would not be allowed because his “most recent paying benefit year” would have been the second-benefit year claim filed effective September 27, 2009. There was no EUC balance available on that claim so he was not entitled to receive EUC again until had exhausted the regular benefits available on the third benefit year claim.

Stanley was not eligible for EUC benefits from September 26, 2010, through July 9, 2011.

DECISION:

The unemployment insurance decision dated October 4, 2011, reference 01, is affirmed. Larry Stanley not eligible for EUC benefits from September 26, 2010, through July 9, 2011.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

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