

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER M KENLINE
Claimant

APPEAL NO: 23A -UI-08756-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/27/23
Claimant: Appellant (1-R)**

Iowa Code § 96.4(4) – Monetary Eligibility
Iowa Code section 96.3(4) – Determination of Benefits

STATEMENT OF THE CASE:

The claimant, Christopher M. Kenline, filed an appeal from the September 7, 2023, monetary record that denied benefits because of not having sufficient wages in the base period to be eligible to draw benefits. After due notice was issued, a hearing was held on September 28, 2023 at 11:00 a.m. The claimant participated. Official notice was taken of the agency records.

ISSUES:

Is the claimant's appeal of the monetary record timely?

Is the claimant's monetary record correct?

FINDINGS OF FACT:

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

The claimant's current monetary record reflects the following information:

Employer	2022/2	2022/3	2022/4	2023/1	2023/2

The claimant seeks to introduce wages to his base period from his former employer, Prelago Health, formerly known as Quit Genius. The claimant worked as a substance abuse counselor over a telehealth phone application from January 23, 2023 to July 13, 2023. He earned \$30 per hour working in this role with varying hours but averaging approximately 23 hours per week or more. He estimates he earned \$14,000 to \$15,000 in wages from this employer. The claimant has submitted a form to Iowa Workforce Development Department's Iowa Worker Misclassification Unit through an online portal within the last week.

The following section of the findings of facts display information necessary to resolve the timeliness issue:

The claimant received the monetary record on September 11, 2023. The mailing date on the monetary record is September 7, 2023. (Exhibit D1) The claimant appealed just two days later, on September 13, 2023. (Exhibit D2) The due date for the monetary record is ten days from its mailing date or September 17, 2023. (Exhibit D1)

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant's appeal was timely filed because it was filed within 10 calendar days of the monetary record's mailing date. He further finds that the claimant's monetary record is correct. He remands the determination of alleged misclassification of wages earned during the first quarter of 2023 through the beginning of the third quarter of 2023 to the Iowa Worker Misclassification Unit.

First the administrative law judge will evaluate whether the claimant's appeal of the monetary record is timely.

Iowa Admin. Code r. 871-24.9(1)(a)&(b) provide:

Monetary determinations.

- a. When an initial claim for benefits is filed, the department shall mail to the individual claiming benefits a Form 65-5318, Iowa Monetary Record, which is a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.
- b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual **within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.**

Ten calendar days after the date of the monetary record places the due date at September 17, 2023, a Sunday. The filing date would be extended to the following day of September 18, 2023. The claimant met that deadline easily because he filed his appeal on September 13, 2023. The claimant's appeal is timely.

Now the administrative law judge will evaluate whether the claimant's monetary record is correct.

Iowa Code section 96.4(4)c provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the

amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

Iowa Code section 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest. The director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal	Subject to the following maximum
the following fraction of high quarter wages:	percentage of the statewide average weekly wage.	
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section, "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

The claimant's original claim for benefits is effective August 27, 2023. In program year 2023-2024 effective July 1, 2023, the threshold for meeting the criteria in the law above means the claimant must meet the following thresholds. The claimant must show at least \$2,000.00 in one quarter and the other must be \$1,000.00. The total wages in the four quarters the claimant draws from also must be at least one and a quarter times the highest quarter.

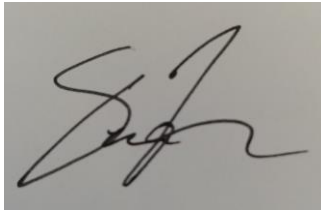
In this case, the claimant does not meet the minimum threshold of having any taxable wages in his base period. His monetary record shows the current recognized taxable wages as zero. The only wages the claimant seeks to add have been classified as independent contractor wages.

DECISION:

The September 7, 2023, monetary record, decision is **AFFIRMED**. The claimant's monetary record is correct. The claimant currently does not have qualified taxable wages in his base period to be monetarily eligible.

REMAND:

The administrative law judge remands to the Iowa Worker Misclassification Unit the issue regarding the misclassification of wages earned from Quit Genius, also known as, Pelago Health for an initial investigation and determination.¹



Sean M. Nelson
Administrative Law Judge II

September 29, 2023
Decision Dated and Mailed

SMN/jkb

¹ The administrative law judge notes that a determination made by that body must be appealed to Department of Inspections and Appeal's Central Panel rather than the Unemployment Appeals Bureau.

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.