

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ALIMA RACHIDI**  
Claimant

**GRAPETREE MEDICAL STAFFING INC**  
Employer

**APPEAL 22A-UI-06839-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/31/20**  
**Claimant: Appellant (1R)**

Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Code § 96.4(3) – Eligibility – Able to and Available for Work

**STATEMENT OF THE CASE:**

On March 14, 2022, Alima Rachidi (claimant/appellant) filed an appeal from the Iowa Workforce Development (“IWD”) decision dated March 10, 2021 (reference 01) that denied unemployment insurance benefits as if May 31, 2020 based on a finding that claimant was unavailable for work.

A telephone hearing was held on May 3, 2022. The parties were properly notified of the hearing. Claimant participated personally. Grapetree Medical Staffing Inc (employer/respondent) participated by HR Rep. Isabelle Saemisch.

Appeal Nos. 22A-UI-06839-AD-T, 22A-UI-06840-AD-T, 22A-UI-06841-AD-T, 22A-UI-06842-AD-T, and 22A-UI-06843-AD-T are related and were heard concurrently. Employer’s Exhibit 1 was admitted in 22A-UI-06839-AD-T. No other exhibits were offered or admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

I. Is the appeal timely?

**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 above address on March 10, 2021. That was claimant’s correct address at that time. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by March 20, 2021.

Claimant did receive the decision and noted the deadline to appeal. The delay in appealing was due to claimant believing she did not need to appeal the decision because she was not intending to apply for unemployment insurance benefits but instead for Pandemic Unemployment Assistance (PUA). Claimant appealed when she received overpayment decisions approximately a year later.

Claimant has filed applications for PUA on two occasions: on May 21, 2020 and on March 25, 2021. It does not appear that IWD has issued a determination on either of those applications.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's appeal was untimely. The decision dated March 10, 2021 (reference 01) that denied unemployment insurance benefits as if May 31, 2020 based on a finding that claimant was unavailable for work is therefore final and remains in force.

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)(a) 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 on 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)
  - (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.

There is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and the Administrative Law Judge has no authority to change the decision of representative if a timely appeal is not filed. *Franklin v. Iowa Dept. Job Service*, 277 N.W.2d 877, 881 (Iowa 1979). The ten-day period for appealing an initial determination concerning a claim for benefits has been described as jurisdictional. *Messina v. Iowa Dept. of Job Service*, 341 N.W.2d 52, 55 (Iowa 1983); *Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373 (Iowa 1979). The only basis for changing the ten-day period would be where notice to the appealing party was constitutionally invalid. *E.g. Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373, 377 (Iowa 1979). The question in such cases becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. Iowa Employment Sec. Commission*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Employment Sec. Commission*, 212 N.W.2d 471 (Iowa 1973). The question of whether the Claimant has been denied a reasonable opportunity to assert an appeal is also informed by rule 871-24.35(2) which states that "the submission of any ...appeal...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.”

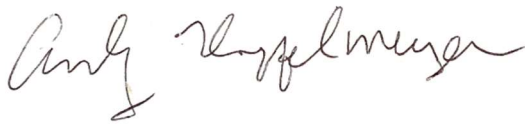
Claimant received the decision in a timely manner and had a reasonable opportunity file a timely appeal. Claimant did not appeal because she was not intending to apply for unemployment insurance benefits but instead for PUA. While the administrative law judge is sympathetic to this reason and with the extreme delay in processing claimant’s PUA applications, this is not a good cause reason for delay and the administrative law judge therefore concludes the appeal is not timely. Because the appeal is not timely, the decision has become final and the administrative law judge lacks jurisdiction to change it.

**DECISION:**

The administrative law judge concludes the claimant’s appeal was untimely. The decision dated March 10, 2021 (reference 01) that denied unemployment insurance benefits as if May 31, 2020 based on a finding that claimant was unavailable for work is therefore final and remains in force.

**REMAND:**

Claimant has filed applications for PUA on two occasions: on May 21, 2020 and on March 25, 2021. It does not appear that IWD has issued a determination on either of those applications. IWD shall immediately issue a determination as to claimant’s eligibility for PUA. If PUA is allowed, IWD shall to the extent allowed by law use those PUA and related PEUC, FPUC, and LWAP payments to offset any overpayments caused by claimant’s ineligibility for unemployment insurance benefits.



---

Andrew B. Duffelmeyer  
Administrative Law Judge

May 4, 2022

---

Decision Dated and Mailed

abd/abd