

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SIERRA RICHARDSON
Claimant

APPEAL 22A-UI-00562-DH-T

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**AMENDED
ADMINISTRATIVE
LAW JUDGE
DECISION**

**OC: 06/28/20
Claimant: Appellant (1)**

Iowa Code § 96.6(2) - Timeliness of Appeal
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

December 3, 2021, Claimant/appellant, Sierra Richardson, filed an appeal from the October 15, 2021, (reference 07) unemployment insurance decision that established an overpayment of FPUC benefits in the amount of \$6,900.00 for the 23-week period ending June 12, 2021, due to the decision reference 05. After proper notice, a telephone hearing was conducted on January 27, 2022. The following hearings were held together as part of a consolidated hearing: Appeals 22A-UI-00559-DH-T, 22A-UI-0561-DH-T, and 22A-UI-00562-DH-T. Claimant participated personally. The Department did not participate. Judicial notice was taken of the administrative records.

This Amendment is only to correct the Claimant name, nothing more.

ISSUES:

Is the appeal timely?
Was claimant overpaid FPUC benefits?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the undersigned finds:

Claimant filed a new claim for unemployment insurance benefits with an effective date of June 28, 2020. Claimant filed for and exhausted his regular state funded benefits in Iowa effective the 01/02/2021 payment.

The claimant received Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$6,900.00 for the 23-week period ending June 12, 2021.

The initial decision, reference 05, which denied PEUC benefits to the claimant was affirmed in Appeal 22A-UI-00559-DH-T, as claimant was monetarily eligible in the state of Tennessee for

regular benefits if she combined those wages and wages earned in Iowa were transferred to Tennessee, for a combined wage claim (CWC).

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge deems the appeal is timely.

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).

Appellant never received the decision in the mail and therefore never had an opportunity to file an appeal prior to the appeal deadline. Appellant's delay was not due to an error or misinformation from the Department but due to delay or other action of the United States Postal Service. Good cause reason has been established for the delay. Claimant's appeal is deemed to be timely filed. Once claimant learned of the issue, through an overpayment statement, she filed within seven days.

The next issue in this case is whether the claimant was overpaid FPUC benefits. For the reasons set forth below, it is determined that claimant was overpaid FPUC benefits. Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....


(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving PEUC benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). The claimant was overpaid \$6,900.00 in FPUC benefits.

DECISION:

The unemployment insurance decision dated October 15, 2021, (reference 07), is **AFFIRMED**. Claimant was overpaid \$6,900.00 in FPUC benefits.



Darrin T. Hamilton
Administrative Law Judge

March 31, 2022
Decision Dated and Mailed

dh/scn

Note to Claimant:

Instructions for requesting a waiver of this overpayment can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.