

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHEILA L GREGAN
Claimant

APPEAL NO. 09A-UI-07053-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORP
Employer

**Original Claim: 01/18/09
Claimant: Appellant (1)**

Section 96.5-5 – Deductible Payments
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Sheila L. Gregan filed a timely appeal from an unemployment insurance decision dated April 24, 2009, reference 02, that denied unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held May 26, 2009, with Ms. Gregan participating. The employer was Central Iowa Hospital Corporation. The employer did not participate in the hearing. Exhibit D-1, the claimant's appeal letter, was admitted into evidence.

ISSUE:

Did the claimant file a timely appeal?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decision from which the claimant has appealed states that it would become final unless an appeal was postmarked by May 4, 2009, or received by the Agency by that date. The appeal was postmarked on May 6, 2009. The claimant had received the decision in time to file a timely appeal.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has jurisdiction to rule on the merits of this case. He does not.

Iowa Code section 96.6-2 gives an individual ten days from the date of a fact-finding decision to file an appeal. The Supreme Court of Iowa has ruled that the time limit in the statute is jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979).

The administrative law judge concludes from the evidence in this record that the claimant could have but did not file an appeal within the time limit set by statute. Accordingly, the

administrative law judge concludes that he does not have jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated April 24, 2009, reference 02, has become final and remains in effect. Benefits are withheld for the two weeks ending February 14, 2009.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw