

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MOHAMAD A SULIMAN ADAM**  
Claimant

**APPEAL NO. 22A-UI-04129-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OPTIMAE LIFESERVICES INC**  
Employer

**OC: 05/24/20**  
**Claimant: Appellant (1)**

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Iowa Code Section 96.6(2) – Timeliness of Appeal  
Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

On January 28, 2022, Mohamed Suliman Adam filed a late appeal from the January 15, 2021 (reference 03) decision that denied benefits effective August 30, 2020, based on the deputy's conclusion the claimant requested and was granted a leave of absence, was voluntarily unemployed, and was not available for work. After due notice was issued, a hearing was held on March 18, 2022. Claimant participated. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the time of the appeal hearing and did not participate. Exhibit A was received into evidence. The administrative law judge took official notice of relevant Agency administrative records, including: the reference 01 through 05 decisions, the reference 01 and 02 fact-finding materials, KLOG, DBRO, KPYX, WAGE-A, and the December 18, 2020 PUA application.

**ISSUE:**

Whether the appeal was timely. Whether there is good cause to treat the appeal as timely.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Mohamed Suliman Adam, established an original claim for benefits that was effective May 24, 2020. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$95.00. The claimant received \$236.00 in regular benefits for five weeks between May 24, 2020 and June 27, 2020. The claimant also received \$600.00 in weekly Federal Pandemic Unemployment Compensation (FPUC) benefits for each of those five weeks. The claimant continued to make weekly claims up to the present, though Iowa Workforce Development did not pay any benefits for the period on or after June 27, 2020.

The claimant has at all relevant times been an international graduate student in epidemiology at The University of Iowa.

From 2019 until the middle of February 2022, the claimant resided in a house on Oakridge Avenue in Iowa City. From 2017 until March 2022, the claimant maintained a post office box at

the Iowa City post office. The Iowa City post office is located at 925 Highway 6 E, Iowa City, Iowa 52240. At the time the claimant established the original claim for benefits, the claimant provided the physical address for the Iowa City post office as his mailing address without reference to his post office box number. Despite this irregularity in the address information, the claimant was able to receive correspondence from Iowa Workforce Development via his assigned post office box.

On July 7, 2020, the claimant contacted Iowa Workforce Development and amended his address of record to include the post office box number. However, because the physical address remained part of the address of record information, Iowa Workforce Development continued to direct correspondence to the physical address for the Iowa City post office.

On December 18, 2020, the claimant filed an application for Pandemic Unemployment Assistance (PUA) benefits. Iowa Workforce Development records reflect that IWD never entered a decision regarding the claimant's PUA eligibility.

On January 15, 2021, Iowa Workforce Development mailed the reference 03 decision to the claimant at the 925 Highway 6 E. Iowa City address. The weight of the evidence in the record establishes the claimant received the decision at his Iowa City post office box in a timely manner, prior to the deadline for appeal. The reference 03 decision denied benefits effective August 30, 2020, based on the deputy's conclusion the claimant requested and was granted a leave of absence, was voluntarily unemployed, and was not available for work. The decision stated that the decision would become final unless an appeal was postmarked by January 25, 2021 or was received by the Appeals Section by that date. The claimant did not take steps to file an appeal from the decisions by the January 25, 2021 appeal deadline or any point prior to January 28, 2022.

On January 27, 2021, the claimant participated in a cold-call fact-finding interview that addressed the claimant's employment status with Mayor's Youth Empowerment Program, whether the claimant was able to work and available for work during the period that began May 24, 2020, and whether the claimant was temporarily or partially unemployed during the period that began May 24, 2020. The fact-finding interview also addressed similar issues pertaining to the claimant's employment status with employer Caring Hands & More, L.L.C. The claimant does not recall this contact with the deputy.

On January 28, 2021, Iowa Workforce Development mailed two decisions to the claimant at the 925 Highway 6 E. Iowa City address. The weight of the evidence in the record establishes the claimant received the decisions at his Iowa City post office box in a timely manner, prior to the deadline for appeal. The reference 01 decision denied benefits effective May 24, 2020, based on the deputy's conclusion the claimant was still employed with Mayor's Youth Empowerment Program under the same hours and wages as in the original contract of hire and, therefore, could not be deemed partially unemployed within the meaning of the law. The reference 02 decision denied benefits effective May 24, 2020, based on the deputy's conclusion the claimant was still employed with Caring Hands & More, L.L.C. under the same hours and wages as in the original contract of hire and, therefore, could not be deemed partially unemployed within the meaning of the law. Both decisions stated that the decision would become final unless an appeal was postmarked by February 7, 2021 or was received by the Appeals Section by that date. Both decisions also stated that if the appeal deadline fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. February 7, 2021 was a Sunday and the next working day was Monday, February 8, 2021. The claimant did not take steps to file an appeal from the decisions by the February 8, 2021 extended appeal deadline or any point prior to January 28, 2022.

On March 16, 2021, the claimant contacted Iowa Workforce Development and updated his address of record so that the Iowa City post office box number finally appeared as the address of record. However, the claimant provided an erroneous zip code, 52244, rather than the correct 52240 zip code.

On January 18, 2022, Iowa Workforce Development mailed the reference 05 (o.c. 5/24/20) FPUC overpayment decision to the claimant's Iowa City post office box address of record. The claimant received the decision a timely manner, prior to the deadline for appeal. The reference 05 decision held the claimant was overpaid \$3,000.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the five weeks between May 24, 2020 and June 27, 2020, due to the reference 01 decision that denied benefits for that period. The reference 05 decision included a January 29, 2022 deadline for appeal. Because that date was a Saturday, the deadline was extended the next working day, Monday, January 31, 2022.

On January 19, 2022, Iowa Workforce Development mailed the reference 04 overpayment decision to the claimant's Iowa City post office box address of record. The claimant received the decision in a timely manner, prior to the deadline for appeal. The reference 04 decision held the claimant was overpaid \$236.00 in regular state benefits for the five weeks between May 24, 2020 and June 27, 2020, due to the January 28, 2021 (reference 01) decision that denied benefits for that period. The reference 05 decision included a January 29, 2022 deadline for appeal. Because that date was a Saturday, the deadline was extended the next working day, Monday, January 31, 2022.

On January 28, 2022, the claimant completed and transmitted an online appeal. The claimant cited the reference 05 overpayment decision in the appeal, but referenced the able and available issues in the body of the appeal. The Appeals Bureau received the appeal on January 28, 2022 and treated it as an appeal from the reference 01 through reference 05 decisions.

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

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The ten-day deadline for appeal begins to run on the date Workforce Development mails the decision to the parties. The "decision date" found in the upper right-hand portion of the Agency representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

An appeal submitted by mail is deemed filed 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 was 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. See Iowa Administrative Code rule 871-24.35(1)(a). See also *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983). An appeal submitted by any other means is deemed filed on the date it is received by the Unemployment Insurance Division of Iowa Workforce Development. See Iowa Administrative Code rule 871-24.35(1)(b).

The evidence in the record establishes that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. 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). One question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert 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).

No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case. See Iowa Administrative Code rule 871-24.35(2)(c).

The evidence in the record establishes an untimely appeal from the January 15, 2021 (reference 03) decision that denied benefits effective August 30, 2020, based on the deputy's conclusion the claimant requested and was granted a leave of absence, was voluntarily unemployed, and was not available for work. The weight of the evidence indicates the claimant received the reference 03 decision in a timely manner, had a reasonable opportunity to file an appeal by the January 25, 2021 deadline for appeal, but unreasonably delayed filing the appeal to January 28, 2022. The late filing of the appeal was not attributable to the Iowa Workforce Development error or misinformation or delay or other action of the United States Postal Service. There is not good cause to treat the late appeal as a timely appeal. See Iowa Administrative Code rule 871-24.35(2). Because the appeal was untimely, administrative law judge lacks jurisdiction to disturb the decision from which the claimant appeals in the present

matter. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

**DECISION:**

The claimant's appeal from the January 15, 2021 (reference 03) decision was untimely. The decision that denied benefits effective August 30, 2020, based on the deputy's conclusion the claimant requested and was granted a leave of absence, was voluntarily unemployed, and was not available for work, remains in effect.

In the event this decision regarding timeliness of appeal is reversed on further appeal, there is sufficient evidence in the record for a decision on the substantive issue without need for further hearing.



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James E. Timberland  
Administrative Law Judge

April 5, 2022  
Decision Dated and Mailed

jet/mh