

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM G HEVERLY
Claimant

APPEAL NO. 12A-UI-05998-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/19/09
Claimant: Appellant (4)**

Public Law 110-252 – Emergency Unemployment Compensation
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

William G. Heverly filed an appeal from an unemployment insurance decision dated April 21, 2010, reference 02, that ruled he was ineligible for Emergency Unemployment Compensation benefits through Iowa effective February 7, 2010 upon a finding that he was monetarily eligible for regular state unemployment insurance benefits through North Dakota as of that date. After due notice was issued, a telephone hearing was held June 22, 2012 with Mr. Heverly participating. Exhibit D-1 was admitted into evidence. The record was held open for documents from Job Service of North Dakota. They have now been received and are included in the record as Exhibit A.

ISSUES:

Has the claimant filed a timely appeal?
Is the claimant eligible for Emergency Unemployment Compensation benefits effective February 7, 2010?

FINDINGS OF FACT:

The decision from which William G. Heverly has appealed states that it would become final unless an appeal was postmarked by May 1, 2010 or received by that date. Mr. Heverly did not receive the decision. He first learned of its existence when receiving an overpayment bill on May 18, 2012. He filed an appeal by mail on May 21, 2012.

Mr. Heverly became eligible for state unemployment insurance benefits in North Dakota on April 4, 2010.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the administrative law judge has jurisdiction to rule on the merits of the case. He does. Additional time for an appeal may be granted when the delay is the fault of the U.S. Postal Service or Iowa Workforce Development. See 871 IAC 24.35. The evidence

here is that Mr. Heverly did not learn of the existence of the adverse decision until less than a week before he filed his appeal. Under these circumstances, the administrative law judge concludes that he has jurisdiction to rule on the merits of the case.

Public Law 110-252, the federal statute creating the Emergency Unemployment Compensation Program, also establishes eligibility requirements. One requirement is that an individual cannot receive the federal extended benefits for any week that the individual is monetarily eligible for regular state unemployment insurance benefits from any state. The claimant has submitted a document from Job Service of North Dakota confirming that he is eligible for benefits through North Dakota effective April 10, 2010, not February 7, 2010.

DECISION:

The unemployment insurance decision dated April 21, 2010, reference 02, is modified. The claimant is ineligible for state unemployment insurance benefits effective April 10, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs