

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BREANNA R LUSCOMBE
Claimant

APPEAL 21A-UI-16512-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 05/16/21
Claimant: Appellant (1R)**

Iowa Admin. Code 871-24.9 – Timeliness of Appeal
Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year
Iowa Code § 96.3(4) – Determination of Benefits

STATEMENT OF THE CASE:

On July 28, 2021, Breanna Luscombe (claimant/appellant) filed an appeal from the monetary determination dated May 27, 2021, which determined claimant was monetarily ineligible for benefits effective May 16, 2021 based on a finding there were insufficient wages reported during the base period.

After due notice was issued, a telephone conference hearing was held on September 17, 2021. Claimant was represented by her mother, Lana Luscombe. Claimant submitted a statement authorizing her mother to participate on her behalf. Claimant did not participate personally.

ISSUE(S):

Was the monetary determination timely appealed?
Is the monetary record dated May 27, 2021 correct?
Is the claimant monetarily eligible for benefits effective May 16, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed a claim for benefits with an effective date of March 22, 2020. Claimant received regular unemployment insurance benefits and then Pandemic Emergency Unemployment Compensation (PEUC) and extended benefits through October 31, 2020. Claimant reopened that claim effective March 7, 2021 and filed weekly claims in the benefit weeks ending March 13, 2021 and March 20, 2021. That claim year ended March 21, 2021. Claimant continued to file weekly claims from the benefit week ending March 27, 2021 through the benefit week ending May 8, 2021.

Claimant received a decision dated April 7, 2021 which informed her she was eligible for PEUC in the amount of \$128.00 per week effective March 14, 2021. However, PEUC payments were not issued. This prompted claimant to contact the Department. She received conflicting

information about her eligibility for benefits and was ultimately instructed to file a new claim. Claimant did file a new claim effective May 16, 2021.

The base period for the claim year effective May 16, 2021, covers the first quarter of 2020 through the fourth quarter of 2020. The wages listed in the monetary record for those quarters are correct. Claimant earned wages in the amount of \$1,595.00 for the first quarter of 2020 and \$175.00 for the fourth quarter of 2020.

Claimant did not appeal the monetary record due to not receiving it and due to confusion about her eligibility for Pandemic Emergency Unemployment Compensation (PEUC). Claimant was in contact with the Department numerous times after that and received conflicting information about whether she was eligible for benefits or PEUC.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the appeal of the monetary record is timely. The monetary determination dated May 27, 2021, which determined claimant was monetarily ineligible for benefits effective May 16, 2021 based on a finding there were insufficient wages reported during the base period, is AFFIRMED.

Iowa Admin. Code 871-24.9 provides in part:

- a. When an initial claim for benefits is filed, the department shall send to the individual claiming benefits a notification consisting of a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.
- b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.
- c. If newly discovered facts are obtained by the department or a written request for reconsideration is filed by the individual and is timely, an unemployment insurance representative shall examine the facts or the written request for reconsideration and shall promptly issue a redetermination or transfer the written request to an administrative law judge. The redetermination of the monetary record shall constitute a final decision unless a written appeal to an administrative law judge is filed by the individual within ten days of the date of the mailing of the redetermination specifying the grounds of objection to the redetermined monetary record. For the purposes of this paragraph, if the newly discovered facts obtained by the department would result in a change of the individual's maximum benefit amount of \$25 or less, the department representative is not required to issue a redetermination unless a redetermination is requested by the individual, the employer, or a representative of another state or federal agency responsible for the administration of an unemployment insurance law.
- d. For the purposes of this subrule, the appeal period is extended to the next working day of the department in the event that the tenth day falls on a Saturday, Sunday, or holiday. Also, failure of an individual to properly complete and sign any document relating to the adjudication of a claim shall result in the return of the document to the individual for proper completion or signature; however, an extension of the appeal period to allow for the return of the documents shall not be granted.

The administrative law judge finds there is good cause for the delay in appealing the monetary determination. That good cause is the delay in receiving the determination and the conflicting information provided by the Department as to claimant's eligibility for benefits. The appeal is therefore timely, and the administrative law judge has jurisdiction to address the underlying issues.

Iowa Code section 96.4(4) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

Iowa Admin. Code r. 871-24.1(11) provides:

Base period. The period of time in which the amount of wages paid to an individual in insured work which determines an individual's eligibility for, and the amount and duration of, benefits. The base period consists of the first four of the last five completed calendar quarters immediately preceding the calendar quarter in which the individual's claim for benefits is effective with the following exception. The department shall exclude three or more calendar quarters from the individual's base period in which the individual received workers' compensation or indemnity insurance benefits and substitute consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation or indemnity insurance benefits. This exception applies under the following conditions:

a. The individual did not work in and receive wages from insured work for three calendar quarters of the base period, or

b. The individual did not work in and receive wages from insured work for two calendar quarters and lacked qualifying wages from insured work to establish a valid claim for benefits during another quarter of the base period.

The administrative law judge finds the monetary determination is correct and claimant lacks sufficient wages during the base period to be eligible for unemployment insurance benefits in the claim year effective May 16, 2021.

The administrative law judge notes that because the March 22, 2020 claim year ended March 21, 2021, claimant had to file a new claim to determine eligibility for benefits in a second claim year. This is what led to the monetary determination which found claimant ineligible for regular unemployment insurance benefits.

However, it appears claimant may have been eligible for PEUC in the weeks ending March 13 and 20, 2021, and it does not appear PEUC was paid for those weeks. This matter is therefore remanded to the Department for a determination as to claimant's eligibility for PEUC in those weeks and thereafter.

DECISION:

The administrative law judge concludes the appeal of the monetary record is timely. The monetary determination dated May 27, 2021, which determined claimant was monetarily ineligible for benefits effective May 16, 2021 based on a finding there were insufficient wages reported during the base period, is AFFIRMED.

REMAND:

This matter is REMANDED to the Department for a determination as to claimant's eligibility for PEUC in the weeks ending March 13 and 20, 2021, and thereafter.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

September 23, 2021
Decision Dated and Mailed

abd/mh

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.