

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**KELLY D ROOKS**

Claimant

**APPEAL NO. 20A-UI-12822-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/01/20**

**Claimant: Appellant (1)**

Iowa Code Section 96.3(4) – Monetary Record  
Iowa Admin. Code r. 871-24.9(1)(b) – Determination of benefit rights

**STATEMENT OF THE CASE:**

Kelly Rooks, the claimant/appellant, appealed the October 6, 2020 monetary determination that reduced his maximum benefit amount and backdated his benefit year start date. A telephone hearing was scheduled and held on December 9, 2020, pursuant to due notice. The claimant participated. Claimant's Exhibit A was admitted into evidence. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did the claimant file a timely appeal of the October 6, 2020 monetary redetermination?  
Is the October 6, 2020 monetary redetermination correct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: the Iowa Workforce Development Department's (Department) May 22, 2020 monetary determination found that the claimant's maximum benefit amount was \$4,174.66 and his benefit year began on May 3, 2020. The Department received updated information about out-of-state wages the claimant received. The Department corrected the claimant's monetary record in its October 6, 2020 redetermination. The October 6, 2020 redetermination found that the claimant's maximum benefit amount was \$3,557.25 and his benefit year began on March 1, 2020. The claimant's base period consists of the fourth quarter of 2018 and the first, second and third quarters of 2019. During the fourth quarter of 2018, and the first, second and third quarters of 2019, the claimant's quarterly wages were \$0, \$6,246.01, \$4,135.83 and \$289.92.

The claimant correctly listed zero dependents when he established his claim for benefits. On October 6, 2020, the Department mailed a monetary record to the claimant. The monetary record reflected the zero dependents and accurately reflected the base period wages, including his updated out-of-state wages. The monetary record included a statement that the monetary record would become final unless an appeal was filed by October 16, 2020. The claimant filed his appeal on October 15, 2020. The claimant provided the Department with his 2018 W-2.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant's appeal was filed on time.

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).

Here, claimant's appeal deadline was October 16, 2020. The claimant filed his appeal on October 15, 2020. The claimant's appeal is considered filed on time.

For the reasons that follow, the administrative law judge concludes the October 6, 2020 redetermination of the claimant's monetary record is accurate.

Iowa Code section 96.4(4)(a) and (b) sets forth the minimum base period earnings requirements a claimant must meet in order to be "monetarily eligible" for unemployment insurance benefits, as follows:

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

a. 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 paragraph 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.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

The 2019 unemployment Insurance Claimant Handbook succinctly states the minimum earnings requirements as follows:

To be eligible for benefits, you must have:

- Been paid wages by covered employers in at least two quarters of the base period
- Total base period wages of at least 1.25 times the wages earned in the highest base period quarter
- Wages of at least \$1,660 in one quarter and at least \$830 in a different quarter (program year July 7, 2019 to July 4, 2020).

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. Iowa Admin. Code r. 871-24.9(1)(b).

Iowa Code section 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total

unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

The monetary record mailed to the claimant on October 6, 2020 was in all respects correct. It set forth the correct number of dependents and the correct base period wages. The claimant's 2018 W-2 does not establish that he earned wages specifically in quarter four of 2018. Claimant's Exhibit A. Therefore, the Department's October 6, 2020 redetermination remains the basis for determining the claimant's eligibility for benefits.

The claimant may submit evidence that he earned income specifically in quarter 4 of 2018 to the Department's Benefit Bureau for another redetermination.

**DECISION:**

The October 6, 2020 monetary determination is affirmed.

A handwritten signature in black ink, appearing to read "Daniel Zeno", written in a cursive style.

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Daniel Zeno  
Administrative Law Judge

December 18, 2020  
Decision Dated and Mailed

dz/scn