

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANTHONY W LONG
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**APPEAL 25A-UI-00745-AR-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/07/24
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Available for work
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On January 10, 2025, the claimant filed an appeal from the March 18, 2024, (reference 06) unemployment insurance decision that denied benefits for the week ending February 24, 2024, because claimant was not able to and available for work due to hospitalization. The parties were properly notified about the hearing. A telephone hearing was held on February 13, 2025. Appeal numbers 25A-UI-00238-AR-T, 25A-UI-00245-AR-T, 25A-UI-00742-AR-T, 25A-UI-00744-AR-T, 25A-UI-00745-AR-T, 25A-UI-00746-AR-T, and 25A-UI-00747-AR-T were heard together and created one record. Claimant, Anthony W. Long, participated. The agency, Iowa Workforce Development (IWD), did not participate. Department's Exhibit D-1 was admitted. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant's appeal timely?
Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of January 7, 2024. He filed weekly continuing claims between January 7, 2024, and March 23, 2024, and then resumed filing weekly claims between December 8, 2024, and January 4, 2025, which was the end of the claim year.

Claimant was hospitalized for two or three days during early February 2024. Once released from the hospital, the doctor did not release claimant to return to work until mid-March 2024.

The agency mailed a disqualification decision to claimant's address of record on March 18, 2024. Claimant did not receive the decision in the mail. The administrative law judge noted that

claimant's address of record does not specify an apartment. Claimant stated that mail from IWD is delivered with intermittent success. It is recommended that claimant call IWD to update his address with the apartment designation to help ensure successful delivery of notices. The decision stated that an appeal was due by March 28, 2024. Claimant filed his appeal on January 10, 2025, after he sought out assistance from the local office because he was not receiving benefit payments.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant was not available for work during the benefit week ending February 24, 2024.

The first issue to be considered in this appeal is whether the appeal is timely. The administrative law judge determines it is.

Iowa Code section 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—24.27(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 Date 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 those outlined in paragraphs 24.27(1) “a” and “b,” on the date it is received by the division.

Iowa Admin. Code r. 871—24.27(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 will 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. Iowa Dep't of Job Serv., 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. Iowa Dep't of Job Serv.*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

The appellant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the disqualification. Therefore, the appeal shall be accepted as timely.

Iowa Code section 96.4(3) provides:

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

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871—24.15(2) provides:

Benefit eligibility conditions. To be eligible to receive benefits, the individual bears the burden of establishing, and the department must find, that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is genuinely attached to the labor market (e.g. the individual is willing, able, and ready to accept suitable work that the individual does have good cause to refuse). Under unemployment insurance laws, it is the availability of an individual who is tested, and the labor market is therefore described in terms of the individual. A labor market for an individual means a market for the type of service the individual offers in the geographical area in which the individual offers the service. It does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services that an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871—24.16(32) provides:

Availability disqualifications. The following are reasons for disqualifying a claimant for being unavailable for work.

Where the claimant is not able to work, is under the care of a medical practitioner, and has not been released as being able to work.

Claimant was in the hospital for a short period in early February 2024. However, even after he was released from the hospital, his doctor did not release him to return to any work until mid-March 2024. Claimant was not available for work for the week between February 18, 2024, and February 24, 2024. Benefits are denied.

DECISION:

The claimant's appeal is accepted as timely. The March 18, 2024, (reference 06) unemployment insurance decision is AFFIRMED. Claimant is not able to and available for work for the benefit week ending February 24, 2024. Benefits are denied.



Alexis D. Rowe
Administrative Law Judge

February 14, 2025
Decision Dated and Mailed

ar/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.