

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SARAH R TSCHETTER**  
Claimant

**APPEAL 22A-UI-10724-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/22/20  
Claimant: Appellant (1)**

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PL 116-136 Sec 2104 –Pandemic Emergency Unemployment Compensation (PEUC)  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the April 7, 2021 (reference 01) unemployment insurance decision that found claimant was not eligible for PEUC benefits effective October 18, 2020 because she was monetarily eligible for benefits in the State of Nebraska. The claimant was properly notified of the hearing. A telephone hearing was held on June 14, 2022. The claimant participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records. The hearing was consolidated with Appeal No. 22A-UI-10725-DB-T.

**ISSUES:**

Is the appeal timely?  
Is the claimant eligible for PEUC benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: An unemployment insurance benefits decision dated April 7, 2021 (reference 01) was mailed to the claimant's address of record. Claimant did not receive the decision in the mail. It had an appeal deadline of April 18, 2021. An appeal was filed by the claimant on April 28, 2022 when she received an overpayment of benefits decision in the mail.

Claimant had filed for unemployment insurance benefits effective March 22, 2020. Between October 18, 2020 and December 5, 2020, the claimant was paid PEUC benefits of \$1,145.00. Claimant had earned wages in Nebraska from United Parcel Services Inc. during the year of 2020 in the total amount of \$12,988.22.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

The first issue is whether the claimant's appeal shall be considered timely. The administrative law judge finds that it shall.

Iowa Code § 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 § 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to § 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 § 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to § 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving § 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 § 96.8, subsection 5.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the 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. Bd. of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

Iowa Admin. Code r. 871-24.35(2) provides:

Date of submission and extension of time for payments and notices.

(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.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

- b. The division shall designate personnel who are to decide whether an extension of time shall be granted.
- c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.
- d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

In this case, the claimant never received the decision dated April 7, 2021 in the mail. As such, the delay in the filing of an appeal was due to postal service delay and shall be considered timely.

The next issue is whether the claimant was eligible for PEUC benefits in Iowa effective October 18, 2020. The administrative law judge finds that she was not eligible for PEUC benefits.

Section 2107 of the CARES Act created a new temporary federal program called Pandemic Emergency Unemployment Compensation (PEUC) that provided up to 13 additional weeks of benefits to individuals who have exhausted their regular unemployment compensation entitlement and also provides funding to states to administer the program.

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) FEDERAL-STATE AGREEMENTS. —

(1) IN GENERAL. — Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the “Secretary”). Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(2) PROVISIONS OF AGREEMENT. —

Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law or **any other State unemployment compensation law** or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

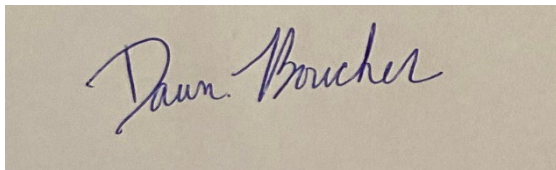
(D) are able to work, available to work, and actively seeking work.

(emphasis added).

In this case, the claimant appears to have been monetarily eligible for regular unemployment insurance benefits in the State of Nebraska effective October 18, 2020. As such, the claimant does not meet the eligibility requirements for PEUC benefits in Iowa effective October 18, 2020.

**DECISION:**

The appeal shall be considered timely. The April 7, 2021 (reference 01) unemployment insurance decision is affirmed. The claimant was not eligible for PEUC benefits in Iowa effective October 18, 2020 as she appears to be monetarily eligible for regular unemployment insurance benefits in the State of Nebraska.

A rectangular box containing a handwritten signature in blue ink that reads "Dawn Boucher".

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Dawn Boucher  
Administrative Law Judge

June 22, 2022  
Decision Dated and Mailed

db/db