

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL J ROSS
Claimant

APPEAL NO. 10A-UI-10242-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WORKFORCE DEVELOPMENT

OC: 04/04/10
Claimant: Appellant (1)

871 IAC 24.2(1)(g) – Retroactive Benefits

STATEMENT OF THE CASE:

Paul Ross filed a timely appeal from the July 14, 2010, reference 02, decision that denied his request for retroactive benefits for the period of April 11, 2010 through July 3, 2010. After due notice was issued, a hearing was held on September 3, 2010. Mr. Ross participated. Exhibit A was received into evidence. The administrative law judge took official notice of the documents Mr. Ross completed with the assistance of a Workforce Development representative on July 13, 2010. The administrative law judge took official notice of the Agency's administrative record of Mr. Ross' weekly report via the automated telephonic weekly claim reporting system. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to Mr. Ross.

ISSUE:

Whether Mr. Ross is eligible for retroactive benefits for the period of April 11, 2010 through July 3, 2010.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On April 7, 2010, Paul Ross went to the Council Bluffs Workforce Development Center to establish a claim for unemployment insurance benefits. The claim was deemed effective April 4, 2010, the Sunday at the start of the week in which Mr. Ross first filed for benefits. Mr. Ross spoke briefly with a Workforce representative, who reminded him of the need to search for new employment each week and to make his weekly report to Workforce Development via the automated telephonic weekly claim reporting system. Mr. Ross used the computer at the Workforce Development Center to establish his claim. The computer system provided Mr. Ross with the phone number he needed to call to make his weekly report to the Agency, provided the time parameters in which the weekly call needed to be made, and provided a personal identification number (PIN).

Within a week or two of filing his claim, Mr. Ross was using the automated telephonic weekly claim reporting system and received a message that if it had been more than one week since he filed his claim and he had not received benefits, he should go to his local Workforce

Development Center. In response to that message, Mr. Ross contacted the Workforce Development Center and spoke to a representative to ask when he could expect to receive benefits. The Workforce Development representative told Mr. Ross that he should begin receiving benefits within two weeks of filing his claim unless an employer protested his claim. An employer did protest his claim.

Within two or three weeks of filing his claim, Mr. Ross received a booklet from Workforce Development. The booklet provided the weekly benefit amount and the maximum benefit amount. The booklet provided the list of questions that the automated telephonic weekly claim reporting system would ask each time Mr. Ross made his weekly report to the Agency via that system. The information in the booklet regarding the question prompts did not match Mr. Ross's experience when using the automated telephonic weekly claim reporting system. Mr. Ross did not contact Workforce Development to inquire why his experience using the system differed from the information provided in the booklet he had received.

Mr. Ross made defective weekly claim reports via the automated telephonic weekly claim reporting system for each of the 12 weeks between April 11, 2010 and July 3, 2010.

On July 13, 2010, Mr. Ross went to the Council Bluffs Workforce Development Center and spoke to a representative. Mr. Ross advised the representative that he had been attempting to make his weekly report from his cell phone, that he was prompted to provide his social security number and PIN, and then the call disconnected. The administrative law judge notes that Mr. Ross' cell phone lost signal during the appeal hearing and it was necessary to re-contact Mr. Ross to continue the hearing. The Workforce representative assisted Mr. Ross with completing hardcopy weekly reports for purposes of a retroactive claim for benefits the weeks Mr. Ross had made a defective weekly report. The representative authorized benefits for the week ending July 10, 2010. Mr. Ross commenced receiving benefits on July 16, 2010. For the week ending July 17, 2010 onward, Mr. Ross correctly entered his weekly report via the automated telephonic weekly claim reporting system.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 871 IAC 24.2(1)(g) provides as follows:

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

An individual claiming benefits using the weekly voice continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.

The individual shall set forth the following:

- (1) That the individual continues the claim for benefits;
- (2) That except as otherwise indicated, during the period covered by the claim the individual was unemployed, earned no wages and received no benefits, was able to work and available for work;

- (3) That the individual indicates the number of employers contacted for work;
- (4) That the individual knows the law provides penalties for false statements in connection with the claim;
- (5) That the individual has reported any job offer received during the period covered by the claim;
- (6) Other information required by the department.

The weight of the evidence indicates that Mr. Ross was provided proper instructions regarding how to weekly report via the automated telephonic weekly claim reporting system at the time he established his claim for benefits and shortly thereafter. The weight of the evidence indicates that Mr. Ross made a defective report for the weeks in question that did not satisfy the requirements of Iowa Administrative Code rule 871 IAC 24.2(1)(g). Despite the fact that he was not receiving benefits for a three-month period and despite prompts on the automated system that directed him to contact his Workforce Development Center, Mr. Ross waited until July 13, 2010 to take reasonable and appropriate steps to find out what he was doing wrong. Once Mr. Ross took those reasonable and appropriate steps, he was able to properly report his weekly claim and received benefits without difficulty. The administrative law judge concludes that the request for retroactive benefits should be denied.

DECISION:

The Agency representative's July 14, 2010, reference 02, is affirmed. The claimant's request for retroactive benefits for the period of April 11, 2010 through July 3, 2010 is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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