

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUIS C GUTIERREZ
Claimant

APPEAL NO. 11A-UI-01756-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01-09-11
Claimant: Appellant (2)**

Iowa Code § 96.3(4) – Determination of Benefits
871 IAC 24.9(1)b – Dependents

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 4, 2011 (reference 01) decision that denied the request to add a dependent to the claim for benefits. After due notice was issued, a hearing was scheduled to be held on March 15, 2011. After reviewing the claimant's appeal letter, the administrative law judge determined no additional testimony was necessary.

ISSUE:

The issue is whether claimant may add a dependent to the claim.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant does not speak or read English well enough to be able to adequately communicate when filling out his claim for benefits. No one was able to assist him with filling out his dependents. Because of his limited English skills, the claimant was unable to understand the forms or the monetary record when he received it. The claimant wishes to add his wife and child as dependents.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to add a dependent to the claim is granted.

Iowa Code § 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 "c", 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.

871 IAC 24.9(1)b provides: Determination of benefit rights.

24.9(1) Monetary determinations.

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.

Since the claimant was unable to read the form in English, his request to have his dependents changed is considered timely. The addition of two dependents to the monetary record for a total of two (2) dependents is granted.

DECISION:

The February 4, 2011 (reference 01) decision is reversed. The claimant's request to add a dependent to the claim is granted. Claimant is entitled to claim two (2) dependents on his claim effective January 9, 2011. A recalculation of benefits shall be made and benefit payments shall be adjusted accordingly.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw