

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERRY M HIATT
Claimant

APPEAL NO: 12A-UI-13130-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMEN**

**OC: 10/21/12
Claimant: Appellant (1)**

Iowa Code § 96.4(4) – Monetary Determination

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed an October 24, 2012 monetary determination that held him monetarily eligible to receive a maximum weekly benefit amount of \$396.00 and a maximum benefits amount of \$7,934.00. The claimant appealed because for two quarters of his base period he was on Family Medical Leave and unable to work. The claimant thought there should be a law or rule to increase his benefits when a claimant is on a medical leave and unable to work.

The claimant participated in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant's monetary determination is correct.

ISSUE:

When a claimant is on a leave of absence for a non-work-related injury or surgery, does the law allow a claimant to substitute wages when his base period does not reflect the wages he would have earned if he had not been on a leave of absence?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of October 21, 2012. During his base period he worked at Kimco Corporation and earned the following wages in his base period:

2011/3	2011/4	2012/1	2012/2
\$9419.27	\$8901.03	\$2758.50	\$2724.86

Based on the above wages, the Department determined the claimant was eligible to receive a maximum weekly benefit amount of \$396.00 and maximum benefits amount of \$7934.55.

During the first and second quarters of 2012, the claimant was on a leave of absence and unable to work and earn wages he usually earned. The claimant's leave of absence was not the result of a work-related injury. The claimant did not receive any workers' compensation benefits during his base period.

REASONING AND CONCLUSIONS OF LAW:

The law allows a substitution of wages in a base period if an individual lacks wage credits because he has been off work due to an injury sustained with a base period employer. Iowa Code § 96.23. Wage substitution is granted when a claimant has received workers' compensation benefits, temporary total disability, during at least three quarters of his base period. Since the claimant did not receive any workers' compensation benefits and he did not have a work-related injury, wages from a previous quarter cannot be substituted in his base period.

The monetary determination issued on October 24, 2012, is correct.

DECISION:

The October 24, 2012 monetary determination is affirmed. The claimant is not eligible to have wages from a previous quarter substituted in his base period because he did not have a work-related injury and did not receive workers' compensation benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs