

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM L SLOAN**  
Claimant

**APPEAL NO: 09A-UI-06083-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/02/08**  
**Claimant: Appellant (1)**

Section 96.5-5-c – Pension or Annuity Payment

**STATEMENT OF THE CASE:**

William L. Sloan (claimant) appealed a representative's April 6, 2009 decision (reference 02) that concluded the pension or annuity payment the claimant received from a base period employer reduced his maximum weekly benefit amount. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on May 13, 2009. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Should the pension or annuity payments the claimant receives from a base period employer's pension plan reduce his maximum weekly benefit amount?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of November 2, 2008. When the claimant established his claim, he asked about how the private pension he received from Linn Cooperative Oil Company would affect his unemployment insurance benefits. The claimant learned the Des Moines office would contact him about this private pension payment. In November 2008, the claimant was found eligible to receive a maximum of \$361.00 in weekly benefits.

Since June 1, 2008, the claimant receives \$1,527.95 a month from a private pension he and Linn Cooperative Oil Company contributed to during the claimant's 17 years of employment with this employer. During his employment, Linn Cooperative Oil Company contributed 87.59 percent to this plan. Linn Cooperative Oil Company is a base period employer.

The Department did not ask the claimant to provide any information about his private pension until February 2009. In 2008, the claimant rolled over the money from the private pension he received into two IRAs – one in his name and one in his wife's name.

**REASONING AND CONCLUSIONS OF LAW:**

For any week a claimant receives a pension or periodic payment made under a plan maintained or contributed to by a base period employer, the period payment reduce a claimant's maximum weekly benefit amount by the same percentage that the base period employer contributed to the plan. Iowa Code § 96.5-5-c.

Since Linn Cooperative Oil Company is a base period employer, the periodic payment or monthly pension the claimant receives from Linn Coop must reduce his maximum weekly benefit amount. Linn Cooperative Oil Company contributed 87.59 percent to this plan. Therefore, this percentage must be calculated to determine the weekly amount that reduces the claimant's weekly benefit payment. This means that \$1,338.33 is the monthly amount Linn Cooperative Oil Company has contributed to the plan. When this is calculated on a weekly basis, the claimant is eligible to receive only \$31.00 a week in benefits.

Even though the Department failed to timely process the claimant's claim concerning his pension payments from a base period employer, the claimant still received the pension payments and the law requires that his weekly benefit amount be reduced by the appropriate amount. The claimant's concern about the length of time it took the Department to review his pension payments is legitimate. In this case, reducing his weekly benefit amount by a pension contributed to by a base period employer is not discretionary; the law requires that this deduction be made. As a result, after the appropriate percentage of the pension payment is subtracted from his weekly benefit amount, the claimant is legally entitled to receive \$31.00 a week in benefits.

**DECISION:**

The representative's April 6, 2009 decision (reference 02) is affirmed. The pension payment the claimant receives from a base period employer must be deducted from his weekly benefit amount. As a result of this deduction, the claimant is eligible to receive \$31.00 a week instead of \$361.00 a week.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css