

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIGUEL A MENDEZ
Claimant

APPEAL NO. 20A-UI-13820-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 10/18/20
Claimant: Appellant (2R)

Iowa Code Section 96.3(4) – Monetary Record

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the monetary record that was mailed to the claimant on October 23, 2020. After due notice was issued, a hearing was held on January 4, 2021. The claimant participated. Exhibits A through D were received into evidence. The administrative law judge took official notice of the following agency administrative records: DBRO, WAGE-A, and WAGE-C.. Spanish-English interpreter Bruno Rables of CTS Language Link assisted with the hearing.

ISSUE:

Whether the claimant made a timely appeal of the monetary record mailed to the claimant on October 23, 2020.

Whether the monetary record mailed to the claimant on October 23, 2020 was correct.

Whether the claimant met the minimum base period earnings requirements to be monetarily eligible for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits that was effective October 18, 2020. At the time the claimant applied for benefits, the claimant indicated that he had zero dependents. The base period for the October 18, 2020 claim consisted of the third and fourth quarters of 2019 and the first and second quarters of 2020. According to Iowa Workforce Development records, no employer reported wages to Iowa Workforce Development as wages paid to the claimant for the four quarters of the base period or for any other period. The monetary record that IWD mailed to the claimant on October 23, 2020 indicated that benefits could not be paid on the claim because there were not wages reported for the claimant's Social Security number. The monetary included a statement that an appeal from the monetary record must be postmarked or received by IWD within 10 calendar days of the mailing date of the monetary record. The claimant emailed his appeal to the Appeals Section on November 2, 2020, which was the 10th calendar day following the October 23, 2020 mailing date of the monetary record.

The claimant has provided a Payroll History Report that reflects Advance Services, Inc. (ASI) paid substantial wages to the claimant for the period of March 15, 2020 through October 18, 2020, including \$526.05 in wages for the first quarter of 2020 and \$7,343.45 wages for the second quarter of 2020. In addition, the Payroll History Report reflects that ASI paid the claimant \$8,252.28 in wages during the third quarter of 2020 and \$1,701.14 during the fourth quarter of 2020.

Though the claimant asserts ASI also paid wages to him for a similar period in 2019, the claimant has not provided proof of said wages. The claimant asserts that he has received unemployment insurance benefits from IWD for 2019, but there no Agency records involving the claimant's Social Security number that reflects such benefits being paid.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(4)(a) and (b) sets forth the minimum base period earnings requirements a claimant must meet into order to be "monetarily eligible" for unemployment insurance benefits, as follows:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

The 2019 unemployment Insurance Claimant Handbook succinctly states the minimum earnings requirements as follows:

To be eligible for benefits, you must have:

- Been paid wages by covered employers in at least two quarters of the base period

- Total base period wages of at least 1.25 times the wages earned in the highest base period quarter
- Wages of at least \$1,660 in one quarter and at least \$830 in a different quarter (program year July 7, 2019 - July 4, 2020)

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. Iowa Admin. Code r. 871-24.9(1)(b).

Iowa Code section 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 "a", 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.

The monetary record mailed to the claimant on October 23, 2020 was incorrect in that it omitted base period wages for the first and second quarter of 2020. The claimant filed a timely appeal from the monetary record. Based on the evidence in the record the claimant lacked sufficient base period wage credits to be monetarily eligible for benefits if one uses the standard base period. The available records reflect \$7,343.45 in wages during the second quarter of 2020,

only \$526.05 in wages in the first quarter of 2020, and no wages for the third and fourth quarters of 2019. There is insufficient evidence in the record to prove 2019 wages. However, based on the second quarter 2020 wages and the \$8,252.28 in third quarter 2020 wages, the claimant has sufficient wages to meet the monetary earnings requirement if one uses an alternate base period that includes the third quarter of 2020. This matter will be remanded to Benefits Bureau and to the Investigations & Recovery Unit for further investigation regarding whether there are 2019 wages from ASI that could be included in a standard base period so that the claimant could be monetarily eligible for benefits using a standard base period. In the alternative, the Benefits Bureau and the Investigations & Recovery unit shall compute the claimant's weekly benefit amount and maximum benefit amount based on an alternate base period that includes the wages from the third quarter of 2020.

DECISION:

The monetary record mailed to the claimant on October 23, 2020 was incorrect, in that it omitted base period wages for the first and second quarter of 2020. The claimant is monetarily ineligible for benefits based on the standard base period and the base period wages documented in the Payroll History Report. The claimant has sufficient wages to meet the monetary earnings requirement using an alternate base period that includes the third quarter of 2020.

This matter is **remanded** to Benefits Bureau and to the Investigations & Recovery Unit for further investigation regarding whether there are 2019 wages from ASI that could be included in a standard base period so that the claimant could be monetarily eligible for benefits using a standard base period. In the alternative, the Benefits Bureau and the Investigations & Recovery unit shall compute the claimant's weekly benefit amount and maximum benefit amount based on an alternate base period that includes the wages from the third quarter of 2020.



James E. Timberland
Administrative Law Judge

January 29, 2021
Decision Dated and Mailed

jet/kmj