

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GERALD J CALVERT
Claimant

APPEAL 17A-UI-00308-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/13/16
Claimant: Appellant (2)**

Iowa Admin. Code r. 871-24.2(1)h(1) & (2) – Backdating
Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from the January 6, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to January 1, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on January 31, 2017. Claimant participated. During the hearing, claimant waived notice regarding retroactive benefits.

ISSUE:

Should the claim be backdated prior to January 1, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for benefits with an effective date of November 13, 2016, and wishes to backdate the claim to December 25, 2016. Claimant is a union employee and was laid off by his most recent contractor on December 22, 2016. On Sunday, January 1, 2017, claimant attempted to file his continued weekly claim for benefits for the week ending December 31, 2016. Claimant received an error message because he was locked out and he was instructed to call Iowa Workforce Development (IWD) to reactivate his claim. On January 2, 2017, IWD was closed for a holiday. On January 3, 2017, claimant called IWD and got his claim reactivated. On January 3, 2017, claimant filed his weekly claim, but it was dated for the week beginning January 1, 2017. Claimant then called January 3, 2017, to backdate his claim, which was denied.

When claimant opened his claim for benefits, with an effective date of November 13, 2016, it was the first time he filed a claim for benefits in Iowa. Claimant was not aware his claim would be locked due to a break in reporting. Claimant was not aware that to reopen/reactivate his claim had to be done during the first week of unemployment. Claimant normally files his claim for benefits on Sunday.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.6-1 provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1) and (2) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week

of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

Iowa Admin. Code r. 871-24.2(1)g provides:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

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.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 13 and 14:

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

REACTIVATING A CLAIM

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week he/she wants to start collecting benefits again. Any employment during the break must be reported.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 19 and 20:

Filing Weekly Claims

How to File

After you file your initial claim, file weekly claims online at iowaworkforcedevelopment.gov for every week you are unemployed or your hours are reduced. You must file a weekly claim for any week that you want payment even if your eligibility is being decided or you have an appeal pending.

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment

When to File

The current week is the week that just ended on Saturday. Individuals are strongly encouraged to file their weekly claims between the hours of 9:00 am Saturday through 11:30 pm Sunday. Failing to do so can potentially delay benefits.

IMPORTANT: You will receive confirmation that the claim has been processed successfully. If you don't receive confirmation, the process must be repeated until the claim has been successfully submitted.

In order to be eligible for weekly benefits, the claimant must file a VRU or online web application continued claim or show good cause for the failure to do so. It is noted that the instruction to file weekly continued claims appears six pages later in the Handbook than the initial and reactivation claim filing instructions, *after* information about the fact-finding interview and appeal process. This chronology is reasonably confusing. Since claimant attempted to file his weekly claim on the weekend like he normally did but was locked out of the online claim system, the delay in contacting IWD until the next open business day to reactivate his claim is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The January 6, 2017, (reference 01) unemployment insurance decision is reversed. Claimant's request to backdate the claim to December 25, 2016, is granted, as are retroactive benefits for the same time period.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs