

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MATTHEW T BURKAMPER
Claimant

APPEAL 14A-UI-11390-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 07/13/14
Claimant: Appellant (1)**

871 IAC 24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 24, 2014, reference 06, decision that denied the request for retroactive benefits. After due notice was issued, a telephone conference hearing was held on November 24, 2014. Claimant participated.

ISSUE:

The issue is whether claimant's request for retroactive benefits should be granted.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed a claim effective July 13, 2014 with an additional claim on October 5, 2014. The claimant claimed benefits by telephone response for the nine-week period ending September 13, 2014. He did not call to file a claim by voice response for the three-week period ending October 4, 2014. The claimant did not call to claim benefits because he had an appeal pending and some unnamed friend of his wife who was allegedly an ex-employee of Iowa Workforce Development Department told him not to call while his appeal was pending. The claimant did not inquire about whether that information was accurate with any Iowa Workforce Development (IWD) employee. All instructions inform claimant's that they are to keep filing their weekly claims even while an appeal is pending.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is denied.

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) 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.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

Claimant's assumption that he was given accurate information by an alleged unnamed former employee of IWD and his failure to inquire with IWD are not considered good cause reasons for having failed to file weekly voice response claims. Retroactive benefits are denied.

DECISION:

The October 24, 2014, reference 06, decision is affirmed. The claimant's request for retroactive benefits is denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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