

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SOHN D WALLACE
Claimant

APPEAL NO: 11A-UI-16494-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/18/11
Claimant: Appellant (5)

871 IAC 24.9(1)b – Change Number of Dependents on Monetary Determination

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 8, 2011 determination (reference 03) that denied his request to change the number of dependents because his request was not timely. The claimant participated in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge denies the claimant's request to change the number of dependents on his claim.

ISSUES:

Did the claimant make a timely request to change the number of his dependents?

Should the claimant's request to change the number of his dependents be granted?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 18, 2011. He initially claimed four dependents. After the Department learned the claimant's spouse had established a claim during the week of August 21, 2011, and claimed three dependents, the Department did not allow the claimant to claim his three children as dependents. Based on three dependents, the claimant's spouse filed for and received benefits August 21 through November 12, 2011.

After realizing the claimant had initially claimed his wife and three children, the same dependents that his wife had claimed, the Department in mid-November changed the number of the claimant's dependents from four to zero. On November 16, 2011, the Department issued a corrected monetary determination that indicated the claimant did not have any dependents.

About this same time the claimant's wife became employed. She stopped filing claims for benefits the week ending November 12, 2011. As a result of the claimant's wife obtaining employment, he made a request on November 23, to change the number of his dependents from zero to three.

REASONING AND CONCLUSIONS OF LAW:

When an initial claim for benefits is filed, the Department mails a statement of the claimant's weekly benefit amount, his total benefit amount, base period wages and other information pertinent regarding the claimant's benefit rights. The monetary record constitutes 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 claimant within ten days of the date of the mailing of the monetary record. 871 IAC 24.9.

Since the Department issued a corrected monetary determination on November 16, the timeframe the claimant could question the monetary determination was extended to November 26, 2011. The claimant made a timely request to change the number of dependents on November 23, 2011.

The law does not allow the same dependents to be claimed on two separate monetary eligible concurrent established benefit years. An individual cannot claim a spouse as a dependent if the spouse listed the claimant as a dependent on a current claim. 871 IAC 24.2. Since the claimant's spouse claimed three dependents as of August 21, 2011, and her claim is effective through August 18, 2012, the claimant cannot now claim these same dependents on his claim even though she is not currently filing claims. If the claimant's spouse reopens her claim before the end of her benefit year, August 18, 2011, her benefit amount is based on three dependents that she claimed when she established her claim.

In summary, even though the claimant made a timely request, his request to add three dependents to his claim as of November 23 is denied because his spouse claimed their three children on the claim she established the week of August 21, 2011. This claim does not end until August 18, 2012.

DECISION:

The representative's December 8, 2011 determination (reference 03) is modified, but the modification has no legal consequence. The claimant made a timely request from the November 16, 2011 corrected monetary determination to change the number of his dependents. His request to change his dependents to three is denied because his spouse claimed their three children on her claim that is effective August 21, 2011, through August 18, 2012. Even though she is not currently filing weekly claims, she still has a claim until August 18, 2012.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs