

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

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**Appeal Number: 06A-UCFE-00015-H2T  
OC: 03-19-06 R: 03  
Claimant: Respondent (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**STATE CLEARLY**

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

**Section 96.23 – Substitution of Quarters/Base Period Exclusion**

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the April 17, 2006, reference 02, decision that allowed claimant to substitute workers' compensation benefits as wage credits in the base period of her unemployment insurance benefit claim. After due notice was issued, a hearing was held on May 10, 2006. The claimant did participate and was represented by Emilie Roth Richardson, Attorney at Law. The employer did participate through Lynn Hanlon, Human Resources.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was separated on June 29, 2001 and thereafter received workers' compensation benefits. She was injured on the job on March 18, 2001 and last worked for the employer on

March 20, 2001. The claimant began receiving workers' compensation benefits in August 2001. She continued to receive workers' compensation benefits for several years. The claimant has no wages in her base period beginning with the original claim date of March 19, 2006.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether the claimant should be allowed to substitute quarters of wage credits earned before the base period of her claim.

Iowa Code section 96.23 provides:

The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 3, if the individual received workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:

1. The individual did not receive wages from insured work for three calendar quarters.
2. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4.

The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such workers' compensation benefits or indemnity insurance benefits.

A substitution is allowed if an individual lacks insured earnings in three or more calendar quarters of the base period. The claimant meets these criteria, as she has no insured earnings in any of her base period. The claimant also must have received workers' compensation benefits during those same three or more quarters. The workers' compensation must have been for temporary total disability, for healing period for indemnity insurance benefits.

The claimant's testimony in conjunction with that from Lynn Hanlon establishes that the claimant received qualifying workers' compensation payments during the three quarter for which she did not receive insured wages. Based on the foregoing, the administrative law judge concludes that she has satisfied the requirement for substituting quarters. Therefore, quarters of wages earned before the base period shall be substituted into her claim.

#### DECISION:

The representative's decision dated April 17, 2006, reference 02 is affirmed. The claimant's request to substitute wage credits before the base period of her claim is allowed.

tkh/pjs