

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

PHILLIP M WIEBRAND
Claimant

APPEAL 17A-UI-00133-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/20/16
Claimant: Appellant (2)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the December 30, 2016, (reference 01) decision that denied the request to backdate the claim for benefits prior to December 25, 2016. After due notice was issued, a hearing was scheduled to be held by telephone conference call at 9:00 a.m. on Thursday, January 26, 2017. Claimant participated as did witness Jessica Wiebrand, claimant's wife.

ISSUE:

May the claimant backdate the claim prior to December 25, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant desires to backdate his claim to December 18, 2016. Claimant initially filed a claim for benefits with an effective date of November 20, 2016. Claimant claimed one week of benefits at that time. Subsequently, he returned to work.

His employer had a two-week shutdown over the Christmas holiday, and claimant attempted to file a weekly claim for benefits on Saturday, December 24, as well as the day after. Each time, he received a message that there was a reporting break on the claim. On Tuesday, December 26, claimant and his wife went into the local IWD office and filed a new claim for benefits. Neither claimant nor his wife recalled experiencing a reporting break in the past.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the 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), (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 a 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.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 13-14:

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 they want to start collecting benefits again.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 9:

FILING WEEKLY CLAIMS

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 received

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 a.m. Saturday through 11:30 p.m. Sunday. Failing to do so can potentially delay benefits.

The IWD Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Since claimant attempted to file the additional claim on Saturday, December 24, but was locked out of the online claim system, the delay in filing in person at the local office on Tuesday, December 26, is considered a good cause reason for having failed to file a claim during this week of unemployment. Now that claimant has gone through a reporting break, he is expected to heed the instructions given to him at the local IWD office and file an additional claim for benefits in a timely manner. Backdating is allowed.

DECISION:

The December 30, 2016, (reference 01) decision is reversed. The claimant's request to backdate the claim to December 18, 2016, is granted, as are the retroactive benefits for the same time period.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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