

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BILLY G MARTIN
Claimant

APPEAL 17A-UI-01042-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/08/17
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Claimant filed an appeal from the January 19, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to January 8, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on February 20, 2017. Claimant participated. George Martin participated on claimant's behalf.

ISSUE:

Should the claim be backdated prior to January 8, 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 January 8, 2017, and desires to backdate the claim to December 18, 2016. Claimant worked until December 17, 2016, when the job was completed. Claimant's last job was around Sioux City, Iowa. Around December 22, 2016, Mr. George Martin and claimant went to a State of Mississippi Workforce Development office to file their claim for benefits. An employee told Mr. George Martin and claimant that they had to file their claims with the State of Iowa, but that there was no hurry because they had to be off for two weeks. Around January 4, 2017 or January 5, 2017, Mr. George Martin then tried to file their claims for benefits with the State of Iowa through his cellphone but he was unsuccessful. Mr. George Martin called Iowa Workforce Development (IWD) regarding the issue of opening their claims and Mr. George Martin was instructed by an IWD employee to not use his cellphone, but to use a computer. Claimant then successfully filed a claim for benefits during the week beginning January 8, 2017.

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.

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.

Claimant has presented good cause to backdate the claim to December 18, 2016, because he and Mr. George Martin were given misinformation about filing from a representative with the State of Mississippi (they were instructed they had to be off for two weeks). Mr. George Martin and claimant waited two weeks and tried to file their claim for benefits on January 4 or 5, 2017. Although they were unsuccessful in filing a claim for benefits on January 4 or 5, 2017, it was because the online system was not allowing Mr. George Martin to use his cellphone to open their claims. Inability to file an electronic claim due to the system being inoperable is considered a good cause reason for the delay in filing the claim. Mr. George Martin then contacted an IWD employee and was instructed they had to use a computer. Mr. George Martin and claimant then successfully filed their claim the next week (during the week beginning January 8, 2017). Claimant has presented good cause to backdate his claim to December 18, 2016, and backdating is allowed.

DECISION:

The January 19, 2017, (reference 01) unemployment insurance decision is reversed. Claimant's request to backdate the claim to December 18, 2016, is granted, as are retroactive benefits for the same time period.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs