

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**MISTY M FRY**  
Claimant

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**APPEAL NO. 19A-UI-05707-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/02/19**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(4) – Timeliness of Request  
Iowa Code § 96.6(2) – Initial Determination

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the July 12, 2019, initial determination that found claimant to have 0 dependents. After due notice was issued, a hearing was held on August 9, 2019. The claimant did participate.

**ISSUE:**

Whether the appeal of the number of dependents is timely filed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant went into the local IWD office in Burlington, Iowa on June 2, 2019 to fill out unemployment paperwork. Claimant has five daughters. Four of them are under the age of 18 and the oldest is 19 years old and recently married. Claimant explained this to the IWD representative who asked claimant how many dependents she claimed on her tax forms. Claimant stated that she didn't know. She decided to claim 0 dependents. This was reflected in the initial determination for benefits sent out at or around June 10, 2019. Claimant decided to amend her claim to include 4 dependents on July 11, 2019.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall

commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The ten calendar days for appeal begin running on the mailing date. The record in this case shows that more than ten calendar days elapsed between the initial determine date and the date claimant wished to amend her claim. The record shows that the appellant did have a reasonable opportunity to file a timely appeal.

The administrative law judge concludes that failure to file a timely amendment to her claim within the time prescribed by the Iowa Employment Security Law was not due to any Agency error or misinformation or delay or other action of the United States Postal Service pursuant to Iowa Admin. Code r. 871-24.35(2). The administrative law judge further concludes that the amendment was not timely filed pursuant to Iowa Code Section 96.6-2.

**DECISION:**

The July 12, 2019, reference 02, decision is affirmed. The amendment in this case was not timely, and the initial determination remains in effect.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/scn