

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BRADLEY S DEMUTH**  
Claimant

**APPEAL 17A-UI-11678-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 11/13/16  
Claimant: Appellant (1)**

Iowa Code § 96.3(4) – Determination of Benefits  
Iowa Code § 96.4(4) – Timely request to change number of dependents  
Iowa Admin. Code r. 871-24.9(1)b – Timely request to change number of dependents

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 6, 2017 corrected monetary determination. After due notice was issued, a telephone hearing was held on November 29, 2017. Claimant participated personally. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Did the claimant file a timely appeal to the monetary record?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed an initial claim for benefits effective November 13, 2016. Claimant had a break in reporting status and filed an additional claim for benefits effective October 8, 2017. Claimant spoke to a representative from Iowa Workforce Development ("IWD") on October 5, 2017 regarding his request to backdate his claim. He informed the IWD representative that he was no longer claiming his daughter as a dependent as she had graduated high school. However, claimant was unaware at that time that he could still claim his daughter as a dependent since he was able to claim her as a dependent on his income tax return.

A corrected monetary record was mailed to claimant on October 6, 2017 listing zero dependents based on the information he gave to the IWD representative. Claimant received this corrected monetary record in the mail prior to the appeal deadline. Because the number of dependents was changed from one to zero, it reduced claimant's weekly benefit amount.

On October 11, 2017, an Unemployment Insurance Benefits decision was issued that found claimant was overpaid \$362.00 for 21 weeks between November 13, 2016 and September 2, 2017 because of the redetermination of his weekly benefit amount. This redetermination stemmed from the reduction of the number of dependents claimed.

Claimant filed an appeal on Friday, October 20, 2017 through the online appeals portal. There was no other written appeal that was filed by claimant prior to October 20, 2017 regarding his corrected monetary record. Claimant was unaware that he needed to file an appeal to the corrected monetary record he received, as he believed it was informational only.

### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not file a timely appeal to his corrected monetary record dated October 6, 2017. As such, it constitutes a final decision.

Iowa Code section 96.3(4) provides:

Determination of benefits.

With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage:
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar, shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Iowa Admin. Code r. 871-24.9(1)(a) – (c) provide:

Monetary determinations.

a. When an initial claim for benefits is filed, the department shall mail to the individual claiming benefits a Form 65-5318, Iowa Monetary Record, which is a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

b. The monetary record shall constitute 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 individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

c. **If newly discovered facts are obtained by the department** or a written request for reconsideration is filed by the individual and is timely, an unemployment insurance representative shall examine the facts or the written request for reconsideration and shall promptly issue a redetermination or transfer the written request to an administrative law judge. **The redetermination of the monetary record shall constitute a final decision unless a written appeal to an administrative law judge is filed by the individual within ten days of the date of the mailing of the redetermination specifying the grounds of objection to the redetermined monetary record.** For the purposes of this paragraph, if the newly discovered facts obtained by the department would result in a change of the individual's maximum benefit amount of \$25 or less, the department representative is not required to issue a redetermination unless a redetermination is requested by the individual, the employer, or a representative of another state or federal agency responsible for the administration of an unemployment insurance law.

(emphasis added).

In this case, claimant informed the department on October 5, 2017 that his dependents had changed from one to zero. However, claimant was incorrect when he gave IWD this information because he was still able to claim his daughter as a dependent on his income tax returns. Based on this incorrect information, the department issued a corrected monetary record, which was mailed to claimant on October 6, 2017. Claimant received this corrected monetary record and failed to appeal the redetermination within ten day of the date of mailing pursuant to Iowa Admin. Code r. 871-29.9(1)c. The back of the corrected monetary record has appeal instructions notifying claimants that an appeal must be filed within ten days of the mailing date; otherwise, the corrected monetary record becomes a final decision.

Because the appeal was not filed until October 20, 2017, it is untimely. The October 6, 2017 corrected monetary record listing zero dependents constitutes a final decision.

#### **DECISION:**

The claimant failed to file a timely appeal to the corrected monetary record dated October 6, 2017. The October 6, 2017 monetary determination is correct.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/rvs