

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDALL L RHOMBERG
Claimant

APPEAL 17A-UI-11322-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/08/17
Claimant: Appellant (2R)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 2, 2017, (reference 01) unemployment insurance decision that denied the request for retroactive benefits. After due notice was issued, a telephone conference hearing was scheduled for November 22, 2017. The claimant participated personally. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant's request for retroactive benefits be granted?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant filed an original claim effective October 8, 2017 in response to his separation on October 4, 2017 from IBM Corporation.

The claimant went to the Dubuque IWD office to establish his claim for benefits. At that time, he explained to a male IWD representative that his last employer, IBM Corporation, informed him that he would be paid for 30 days following his separation. As a result, the representative helped the claimant open his claim but then told him he was unable to make a claim for benefits until he received his final paycheck. Relying on the representative's advice, the claimant did not make weekly continued claims as he awaited for his final paycheck. The claimant received a paycheck on November 11, 2017 which included vacation pay in the amount \$1,647.00 and wages for work performed until separation. The claimant did not report the amount when he established his claim for benefits. Unbeknownst to the claimant, that was his final paycheck. The claimant awaited another check representing the one month pay based upon IBM's representation at the time of his separation. As a result, he also did not file a weekly claim by online web application for the three week period ending October 28, 2017. On November 1, 2017, the claimant contacted IBM Corporation when he had not received the anticipated additional pay and was informed he had been paid out his last paycheck. The claimant

thereafter followed up with IWD and began making his weekly continued claims. The claimant is requesting retroactive benefits for the three week period ending October 28, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is granted.

Iowa Code section 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

During the week in which the unemployment occurs, the claimant should open an umbrella-like "original claim" (OC) by the close of business on Friday to establish the general claim for unemployment insurance benefits. In addition, for each week the claimant remains unemployed, they must file a "weekly continued claim" (WCC) to show they are available for work, report any wages, and otherwise establish eligibility for that past week of benefit payment. That must be done sometime between Sunday and Friday of the following week (see chart below). If a claimant does not file a WCC for one week for any reason and becomes unemployed again, the process must start over by reopening the OC no later than Friday, and filing weekly continued claim sometime between the following Sunday through Friday. No filing of any kind may be done on any Saturday.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim or show good cause for the failure to do so to support a request for retroactive benefits. Iowa Admin. Code r. 871-24.2(1)g. Good cause involves circumstances beyond the claimant's control that prevent a claimant from filing a prompt and proper claim. In this case, the claimant went to his local IWD office for guidance and timely opened his unemployment insurance claim. The claimant was erroneously informed that he could not file a claim for benefits while he was awaiting his final paycheck by the representative who assisted him, which caused the claimant to delay his filing of weekly continued claims for a three week period. Incorrect guidance or information from IWD is considered a good cause reason for the delay in filing the claim. Accordingly, the claimant's request for retroactive benefits is granted. The claimant is allowed retroactive benefits for the three week period ending October 28, 2017, provided he is otherwise eligible.

REMAND: The issue of whether the claimant's receipt of vacation pay is deductible is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 2, 2017, (reference 01) unemployment insurance decision is reversed. The claimant's request for retroactive benefits is granted. Benefits are allowed provided he is otherwise eligible. **REMAND:** The issue of whether the claimant's receipt of vacation pay is deductible is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn