

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEROME A BROCKNEY
Claimant

APPEAL 17A-UI-01067-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/15/17
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 25, 2017 (reference 01) unemployment insurance decision that denied his request to backdate his claim prior to January 15, 2017. The claimant was properly notified of the hearing. A telephone hearing was held on February 20, 2017. The claimant, Jerome A. Brockney, participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance records.

ISSUE:

Should the claimant's request to backdate his claim prior to January 15, 2017 be granted?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed a claim effective January 15, 2017. The claimant desires to backdate the claim to January 8, 2017.

The week of January 8, 2017 claimant visited his local Iowa Workforce Development office in Mason City, Iowa and completed forms to file his initial claim for benefits. He completed the paperwork and was advised by a representative at the office that he had completed his filing. A few days later claimant went on the computer to file his weekly claim for benefits and was advised that no claim existed. Claimant immediately visited the local office the following week, which led to claimant filing his initial claim effective January 15, 2017. Claimant was able to and available for work during the one-week time period ending January 14, 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 § 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.

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.

Claimant was incorrectly informed by an Iowa Workforce Development representative that his claim for benefits was filed effective January 8, 2017 when he visited his local office. Receiving incorrect advice is considered a good cause reason for having failed to file a claim. Backdating is allowed.

DECISION:

The January 25, 2017 (reference 01) decision is reversed. The claimant's request to backdate the claim to January 8, 2017, is granted, as are the retroactive benefits for the same time period.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

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