

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN A CROW
Claimant

APPEAL 18A-UI-09804-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/09/18
Claimant: Appellant (1R)**

Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year
Iowa Code § 96.3(4) – Determination of Benefits

STATEMENT OF THE CASE:

John A. Crow (claimant) filed a timely appeal from the September 17, 2018, monetary record and determination that found a lack of qualified earnings and denied benefits. After due notice was issued, a telephone conference hearing was held on October 10, 2018. The claimant participated. The Claimant's Exhibits A and B were admitted into the record.

ISSUES:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for Intrexon Corporation (Intrexon) on May 8, 2017. The claimant worked from his office in Iowa which Intrexon took legal steps to ensure would be an official office location. The employer's corporate headquarters are located at 1750 Kraft Drive, Suite 1400, in Blacksburg, Virginia 24060. The claimant separated from employment on July 23, 2018. (Exhibit A)

The claimant filed his claim for benefits effective September 9, 2018 and his base period includes the second quarter of 2017 through the first quarter of 2018. On September 17, 2018, the agency mailed a monetary record to the claimant that showed he lacked qualified earnings during his base period and was not eligible for benefits. The monetary record includes wages earned in the second quarter of 2017 from a prior employer, but does not include any wages from Intrexon. The claimant submitted his 2017 W-2 from Intrexon showing gross wages earned in the amount of \$183,741.60 which are not in his wage history. (Exhibit B) The employer withheld federal and state taxes for the state of Iowa. The claimant filed his appeal of the monetary record on September 24, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely and the claimant's monetary record is not correct.

Iowa Code section 96.3(4) provides:

Payment – determination – duration – child support intercept.

4. 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 Code section 96.4(4)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

Required findings.

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

Iowa Admin. Code r. 871-24.9(1)b provides:

Determination of benefits rights.

Monetary determinations

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.

The claimant filed a timely appeal to the monetary record. The claimant has presented sufficient and credible evidence to establish he had additional insured wages in his base period. The claimant's monetary record shall be re-evaluated to determine if the employer reported the wages earned by the claimant to a state other than Iowa, if they were not reported then why those wages were not reported, and additional wage information is to be obtained to determine what wages were paid in each quarter to determine if the claimant is monetarily eligible.

DECISION:

The September 17, 2018, monetary record is affirmed pending the outcome of the remanded issues. The claimant timely appealed the monetary record and he has presented sufficient evidence to show he earned substantial wages during his base period that have not been included in his wage history. Further investigation is needed and his monetary eligibility shall be re-evaluated.

REMAND:

The issues of whether the employer reported the wages earned by the claimant to a state other than Iowa; if the wages were not reported to any state, then why those wages were not reported; and what wages were paid by the employer in each quarter are remanded to the

Benefits Bureau and, if necessary, the Tax Bureau of Iowa Workforce Development for an investigation and re-evaluation of the claimant's monetary eligibility.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn