

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TROY A WILHELM**  
Claimant

**APPEAL 17A-UI-00193-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 12/18/16  
Claimant: Appellant (2)**

Iowa Code § 96.6(1) – Filing Claims  
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 29, 2016, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to December 18, 2016. The claimant was properly notified of the hearing. A telephone hearing was held on January 27, 2017. The claimant Troy Wilhelm participated and testified. Also participating on behalf of the claimant was witness Jim Walters.

**ISSUE:**

May the claim be backdated prior to December 18, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of July 24, 2016, and desires to reopen his claim with an additional claim date and backdate the claim to December 11, 2016, when he was temporarily laid off for a week. Claimant attempted to file online on December 17 and the system would not allow him to, because there was a reporting break. Claimant called the Iowa Workforce Development customer service line on December 19 and was told to file a new claim, which he did. Claimant had breaks before, but his employer previously handled the filing and reopening of his claims and he has received benefits. Claimant did not know he had to reactivate his claim after a period of inactivity or that this must be done by close of business on the Friday of the week he wanted to initiate the reopening of the claim.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the claim is granted.

Iowa Code § 96.6(1) provides:

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) and (2) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) § 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.

The current *Unemployment Insurance Benefits Handbook*, provides in pertinent part on pages 13 and 14:

**CLAIM EFFECTIVE DATE**

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

...

**REACTIVATING A CLAIM**

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week they want to start collecting benefits again.

The current *Unemployment Insurance Benefits Handbook*, provides in pertinent part on pages 19 and 20:

**CLAIMING BENEFITS EACH WEEK**

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment received

Eligibility can be certified online or by phone.

**CERTIFYING ONLINE**

The weekly continued claim is available on the IWD website at [www.iowaworkforcedevelopment.gov](http://www.iowaworkforcedevelopment.gov). Individuals must follow the instructions to log in. Once logged in, eligibility questions are presented.

**CERTIFYING BY TELEPHONE**

The weekly continued claim is available by calling the Interactive Voice Response unit (IVR) at 800-850-5627. Pre-recorded messages will present the eligibility questions.

Individuals should listen carefully to each question and the instructions since the menu responses may be different. Some questions will instruct individuals to enter the pound key/hash tag (#) at the end of the answer.

**IMPORTANT:** Both systems (whether filing online or by phone) will confirm that the claim has been processed successfully. If disconnected before seeing or hearing this message, the process must be repeated until the claim has been successfully submitted.

The current week is the week that just ended on Saturday.

**HOURS TO SUBMIT WEEKLY CONTINUED CLAIM**

Individuals may submit a weekly continued claim:

Monday through Friday, 8:00 am to 6:00 pm 9:00 am Saturday to 11:30 pm,  
Sunday

Note that the instruction to file weekly continued claims appears several pages later in the Handbook than the initial and reactivation claim filing instructions, *after* information about the fact-finding interview and appeal process. This chronology is reasonably confusing. Inability to file an electronic claim due to the system being inoperable is considered a good cause reason for the delay in filing the claim. Incorrect guidance or information from the IWD online claim system is considered a good cause reason for the delay in filing the claim.

The IWD Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Since claimant attempted to file the additional claim but was locked out of the online claim system, the delay in filing until Monday, December 19, after returning from his one-week layoff is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed. The administrative law judge advises claimant to carefully review his Benefits Handbook and contact his local office with any questions about how to file for benefits during periods of temporary layoff going forward.

**DECISION:**

The December 29, 2016, (reference 01) decision is reversed. The claimant's request to backdate the claim to December 11, 2016, is granted, as are the retroactive benefits for the same time period.

---

Nicole Merrill  
Administrative Law Judge

---

Decision Dated and Mailed

nm/