

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**CLIFFORD J BARNHART
1008 HARRISON ST
SHENANDOAH IA 51601**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-06725-SWT
OC: 12/08/05 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 - Timeliness of Appeal
Section 96.3-4 - Monetary Eligibility

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 26, 2006, reference 01, that concluded that his monetary eligibility for unemployment insurance benefits should be calculated using one dependent. An telephone hearing was held on July 24, 2006. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits on December 23, 2005. He reported having one dependent on his new claim for benefits.

A monetary decision was issued on December 23, 2005, which calculated his weekly benefit amount as \$337.00, based on one dependent. The claimant filed a request that his monetary eligibility be recalculated using three dependents on June 26, 2006. He did this because he learned when he reopened his claim for benefits in June 2006 that he could claim his fiancée's children who lived in his household as dependents.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant's monetary eligibility should be calculated based on three dependents.

The issue in this case is whether the claimant filed a timely appeal from the monetary determination issued on December 23, 2005.

Iowa Code section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979); Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant's request to have his dependents changed was filed after the deadline for appealing expired.

The claimant's monetary eligibility should be calculated based on one dependent.

DECISION:

The unemployment insurance decision dated June 26, 2006, reference 01, is affirmed. The claimant's monetary eligibility should be calculated based on one dependent.

saw/pjs