

**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**

**KENNETH J AGAN
1602 NE TRILEIN DR
ANKENY IA 50021**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-03606-MT
OC: 12/04/05 R: 02
Claimant: Appellant (4)**

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)

871 IAC 24.2(1) g – Retroactive Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 13, 2006, reference 02, which denied claimant's request for retroactive benefits. After due notice, a telephone conference hearing was scheduled for and held on April 18, 2006. Claimant participated personally. Claimant failed to respond to the hearing notice and did not participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant filed a claim for benefits with an effective date of December 4, 2005. Claimant asserts that benefits should be allowed retroactive January 15, 2006 through

February 11, 2006. Claimant had an appeal on file with issues of overpayment. Claimant was concerned about receiving unemployment benefits and then being required to repay such benefits after an appeal decision. Claimant consulted with a Workforce Development representative during the week of January 22, 2006, and was informed he could receive benefits retroactive after his hearing was over. Based on the erroneous advice, claimant did not call in his job contacts for the three weeks ending February 11, 2006. Claimant relied on his own judgment for the one week ending January 21, 2006, when failing to call in his job contacts.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether retroactive benefits should be allowed

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

871 IAC 24.2(1)g provides:

(g) No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

An individual claiming benefits using the weekly voice continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.

Erroneous advice from a Workforce Development representative is considered a good cause reason for having failed to file a claim during the three weeks of unemployment ending February 11, 2006. Claimant is at fault for the one week ending January 22, 2006.

DECISION:

The decision of the representative dated March 13, 2006, reference 02, is modified. Claimant's request for retroactive benefits is granted for the time period January 22, 2006 through February 11, 2006. Claimant's request for retroactive benefits is denied for the time period January 15, 2006 through January 21, 2006.

mdm\kkf