

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELIZABETH D STOKKE
Claimant

APPEAL NO. 23A-UI-09306-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**BRADLEY R MEYER DO PLLC
OKOBOJI WELLNESS CLINCI**
Employer

**OC: 09/17/23
Claimant: Appellant (4R)**

Iowa Code Section 96.3(4) – Monetary Record
Iowa Code Section 96.4(4) – Minimum Earnings Requirement

STATEMENT OF THE CASE:

On September 28, 2023, Elizabeth Stokke (claimant) filed an appeal from the monetary determination that Iowa Workforce Development mailed to the claimant on September 19, 2023. After due notice was issued, a hearing was held on October 17, 2023. The claimant participated. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. Exhibit A was received into evidence at the time of the hearing. The administrative law judge took official the following Iowa Workforce Development administrative records: DBRO, WAGEA, WAGEB, EMP1, a December 31, 2021 Employer, New Liability determination, a January 24, 2022 Employer Power of Attorney document, Statement of Amount Due documents dated May 17, 2023 and September 17, 2023, Employer Contribution & Payroll Report past due notices dated November 15, 2022, February 15, 2023, May 15, 2023, and August 23, 2023, and undated letter from Tedra Jorgensen of Okoboji Wellness Clinic asserting responsibility for communicating with IWD Tax Bureau regarding unemployment insurance matters, the monetary determination that Iowa Workforce Development mailed to the claimant on September 19, 2023, and the monetary determination mailed to the claimant on October 6, 2023. The administrative law judge left the hearing record open for the limited purpose of allowing the claimant the opportunity to submit documentation of her base period wages. The claimant submitted wage records that were received into evidence as Exhibits B.

ISSUES:

Whether the claimant made a timely appeal of the monetary record mailed to the claimant on September 19, 2023.

Whether the monetary record mailed to the claimant on September 19, 2023 correctly stated the claimant's base period wages.

Whether the claimant met the minimum earnings requirements to be monetarily eligible for unemployment insurance benefits in connection with the attempted September 19, 2023 original claim.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Elizabeth Stokke (claimant) attempted to establish an original claim for unemployment insurance benefits effective September 17, 2023. At the time the claimant applied for benefits, the claimant correctly indicated that he had four dependents. The claimant has four minor children who reside with the claimant and whom the claimant claims in her tax return.

The claimant's base period for purposes of the claim that would have been effective September 17, 2023 consisted of the second, third and fourth quarters of 2022 and the first quarter of 2023.

On September 19, 2023, Iowa Workforce Development mailed a monetary determination (green paper) to the claimant. The monetary determination stated that benefits could not be paid on the claim because insufficient wages had been reported for the claimant's Social Security number for the period beginning April 1, 2022 and March 31, 2023. The claimant's sole base period employer was Bradley R. Meyer D.O., P.L.L.C., doing business as Okoboji Wellness Clinic. The claimant worked for that employer as Registered Nurse and Nurse Practitioner. The monetary determination correctly set forth \$6,138.50 in base period wages for the second quarter of 2022. However, the monetary determination reflected zero wages for the other three base period quarters. The claimant has provided payment records that demonstrate the base period employer paid wages to the claimant during all four base period quarters. The pay records demonstrate \$13,862.25 in wages paid during the third quarter of 2022, \$15,758.66 in wages paid during the fourth quarter of 2022, and \$22,413.68 in wages paid during the first quarter of 2023. In addition, the pay records demonstrate \$18,257.33 in wages paid during the second quarter of 2023 and \$20,488.00 in wages paid during the third quarter of 2023.

Iowa Workforce Development records of correspondence with the employer reflect ongoing irregularities in the base period employer's management of its unemployment insurance account, including failure to file a timely quarterly Employer's Contribution & Payroll Report for the third and fourth quarter of 2022, and the first and second quarter of 2023. In other words, the employer failed to report the claimant's wages for the third quarter of 2022 onward.

On September 28, 2023, the claimant filed an appeal from the September 19, 2023 monetary determination.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(4)(a) and (b) sets forth the minimum base period earnings requirements a claimant must meet in order to be "monetarily eligible" for unemployment insurance benefits, as follows:

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

- 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.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

The Unemployment Insurance Claimant Handbook succinctly states the minimum earnings requirements as follows:

WAGE REQUIREMENTS

To be eligible for benefits, you must have:

- Been paid wages by covered employers in at least two quarters of the base period
- Total base period wages of at least 1.25 times the wages earned in the highest base period quarter
- Wages of at least \$2,000 in one quarter and at least \$1,000 in a different quarter.

<https://workforce.iowa.gov/unemployment/resources/unemployment-insurance-claimant-handbook/monetary-eligibility>

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

Iowa Code section 96.3(4) provides:

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

Subject to the following maximum percentage of the

	of high quarter wages:	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.

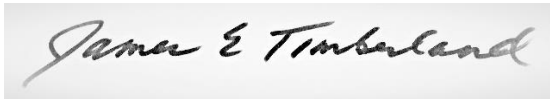
The monetary record mailed to the claimant on September 19, 2023 correctly stated the number of dependents and the base period wages for the second quarter of 2022, but erroneously omitted wages paid to the claimant during the third and fourth quarters of 2022 and the first quarter of 2023. The correct wages for those missing quarters were \$13,862.25 for the third quarter of 2022, \$15,758.66 for the fourth quarter of 2022, and \$22,413.68 for the first quarter of 2023. With inclusion of the erroneously omitted wages, the claimant meets each of the minimum earnings requirements and is monetarily eligible for benefits. The claimant's September 28, 2023 appeal from the September 19, 2023 monetary determination was a timely appeal. This matter will be remanded to Iowa Workforce Development Benefits Bureau for determination of the claimant's weekly benefit amount and maximum benefit amount, based on all of the base period wages.

DECISION:

The monetary record mailed to the claimant on September 19, 2023 is MODIFIED in favor of the claimant/appellant as follows. The monetary record correctly stated the number of dependents and the base period wages for the second quarter of 2022. The monetary record is MODIFIED to add the erroneously omitted wages paid to the claimant during the third and fourth quarters of 2022 and the first quarter of 2023. The correct wages paid during those missing quarters were \$13,862.25 for the third quarter of 2022, \$15,758.66 for the fourth quarter of 2022, and \$22,413.68 for the first quarter of 2023. The claimant meets each of the minimum earnings requirements and is monetarily eligible for benefits.

REMAND:

This matter is REMANDED to Iowa Workforce Development Benefits Bureau for determination of the claimant's weekly benefit amount and maximum benefit amount, based on all of the base period wages as set forth herein.



James E. Timberland
Administrative Law Judge

October 25, 2023
Decision Dated and Mailed

JET/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.