

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LASHONDA D VIVIAN
Claimant

APPEAL 19A-UI-08839-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/01/19
Claimant: Appellant (1)**

Iowa Code § 96.3(4) – Determination of Benefits
Iowa Admin. Code r. 871-24.9(1)b - Dependents

STATEMENT OF THE CASE:

On November 8, 2019, LaShonda D. Vivians (claimant) filed a timely appeal from the October 29, 2019, reference 01, unemployment insurance decision that determined she had incorrectly claimed three dependents and reduced the number of dependents on her claim to zero. After due notice was issued, a hearing was held on December 4, 2019 and consolidated with the hearing for appeal 19A-UI-08840-SC-T. The claimant participated personally. No exhibits were admitted into the record. The administrative law judge took official notice of the administrative record, specifically the fact-finding documents.

ISSUE:

Did the claimant correctly claim three dependents on her claim?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Orlando Vivians (Vivians), the claimant's husband, filed a claim for benefits effective December 16, 2018 as he is temporarily laid off throughout the year. He claimed the couple's three children as dependents on his claim for benefits. The claimant filed her claim for benefits effective September 1, 2019 following a permanent separation from employment. She also claimed the couple's three minor children as dependents.

On October 18, Vivians contacted Iowa Workforce Development (IWD) to ask if he could add the claimant as a dependent on his claim. He also disclosed that he and the claimant were both claiming their children as dependents on their claims. IWD determined the dependents should be removed from the claimant's claim and her weekly and maximum benefit amounts were redetermined.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant incorrectly reported the children as dependents on her claim and her claim should not have any dependents.

Iowa Code section 96.3(4) provides:

Payment – determination – duration – child support intercept.

4. Determination of benefits.

a. 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%

b. 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 Admin. Code r. 871-24.2(1)b(8) provides, in relevant part:

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

1. Section 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:

b. When filing an initial claim for benefits, an individual must provide the following information to the department:

8. Number, full name, social security number, date of birth, and relationship of any dependents claimed. The identify of an individual identified as a dependent shall be verified by the department before the individual is added to the claim as a dependent....

A “dependent” means an individual who has been claimed for the preceding tax year on the claimant’s income tax return. **The same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years.** [Emphasis added.]

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 2019 Unemployment Insurance Claimant Handbook¹ provides, in part:

MONETARY RECORD

The monetary record contains the:

- Start date of claim
- Number of dependents claimed
- Work search requirements
- Weekly Benefit Amount (WBA)
- Maximum Benefit Amount (MBA)
- Employers you worked for in the base period
- Last employer you indicated on your application

Carefully review all information on the monetary record. Contact us immediately or send a letter appealing the monetary record if any information is incorrect. The appeal should include copies of any check stubs, W-2 forms or other proof of earnings, if available.

...

¹ <https://www.iowaworkforcedevelopment.gov/monetary-eligibility> (last accessed December 6, 2019).

DEPENDENTS

The number of dependents is used to help determine your weekly benefit amount and maximum benefit amount. Adding dependents will increase your weekly benefit amount and may increase your maximum benefit amount. A dependent is any individual who was claimed on the prior year's income tax return. A claim may include a maximum of four dependents. Dependents can only be added within 10 days of filing your initial claim. A spouse may be considered a dependent if they earned \$120 or less in wages (excluding self-employment) during the week before the claim effective date. [Emphasis in original.]

Dependents cannot be:

- Yourself
- **Any person listed on another non-expired claim** [Emphasis added.]
- A spouse who listed you on their non-expired claim

Dependents claimed incorrectly may result in an overpayment and may be reviewed by the fraud investigations team.

For purposes of unemployment insurance benefits, dependents cannot be anyone who is already listed on a non-expired claim. The claimant's three children had already been claimed by Vivians on his non-expired claim and, by definition, cannot be dependents on the claimant's claim. The claimant's argument that the children should be on her claim as she is permanently unemployed and he is only temporarily unemployed throughout the year is not relevant to the decision. The claimant incorrectly claimed the children as dependents and her claim should correctly reflect zero dependents.

DECISION:

The October 29, 2019, reference 01, unemployment insurance decision is affirmed. The claimant incorrectly claimed the children as dependents and her original claim effective September 1, 2019 should have zero dependents.



Stephanie R. Callahan
Administrative Law Judge

December 6, 2019
Decision Dated and Mailed

src/scn