

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

TIMOTHY J MACOMBER
Claimant

APPEAL NO. 16A-UI-08455-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/17/16
Claimant: Appellant (1)**

871 IAC 24.2(1)(e) & (g) – Retroactive Benefits

STATEMENT OF THE CASE:

Timothy Macomber filed a timely appeal from the August 2, 2016, reference 07, decision that denied his request for retroactive benefits for the benefit week that ended March 5, 2016. After due notice was issued, a hearing was held on August 22, 2016. Mr. Macomber participated. The hearing in this matter was consolidated with the hearing in Appeal Numbers 16A-UI-08454-JTT and 16A-UI-08456-JTT. Exhibit A and Department Exhibits D-1 through D-5 were received into evidence.

ISSUE:

Whether there is good cause to allow retroactive benefits for the benefit week that ended March 5, 2016.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Timothy Macomber is a carpenter and is a member of a local trade union. Mr. Macomber established an original claim for benefits that was effective January 17, 2016. At the time Mr. Macomber made his initial application for benefits he reviewed the application confirmation page that contained instructions for making weekly claims for benefits. Those instructions told Mr. Macomber that he was required to make a weekly claim every week for which he wanted to receive an unemployment insurance payment. As part of the initial application for benefits, Mr. Macomber had to acknowledge that he would read, know and follow the information contained in the Unemployment Insurance Handbook. Mr. Macomber did not review the handbook. The handbook provided instructions for making weekly claims. In addition, the handbook included the following information regarding lapsed claims and reactivating claims:

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 he/she wants to start collecting benefits again. Any employment during the break must be reported.

2016 Unemployment Insurance Handbook, Guide to Iowa Unemployment Insurance Benefit Process, at page 14.

Mr. Macomber did not immediately make any weekly claims in the weeks that followed his initial application for benefits. Because Mr. Macomber was not making weekly claims, his claim lapsed and it would thereafter be necessary for Mr. Macomber to reactivate the underlying claim before he would be able to commence making weekly claims.

While Mr. Macomber asserts that he made a weekly claim for the week that ended February 26, 2016, Workforce Development administrative records indicate that Mr. Macomber did not reactivate the claim so that the claim would be active during the week that ended February 26, 2016 and did not in fact make a weekly claim for the week that ended February 26, 2016.

During the benefit week that ended March 5, 2016, Mr. Macomber participated in training that Workforce Development approved as department-approved training. However, Mr. Macomber did not reactivate the claim so that the claim would be active during the week that ended March 5, 2016 and did not make a weekly claim for the week that ended March 5, 2016.

During the benefit week that ended July 2, 2016, Mr. Macomber participated in training that Workforce Development approved as department-approved training. However, Mr. Macomber did not reactivate the claim so that the claim would be active during the week that ended July 2, 2016 and did not make a weekly claim for the week that ended July 2, 2016.

During the benefit week that ended July 23, 2016, Mr. Macomber participated in training that Workforce Development approved as department-approved training. However, Mr. Macomber did not reactivate the claim so that the claim would be active during the week that ended July 23, 2016 and did not make a weekly claim for the week that ended July 23, 2016.

In connection with the weeks of department-approved training, Mr. Macomber had assumed that he did not need to take steps to receive unemployment insurance benefits in connection with participating in training arranged by the union local. Neither Workforce Development, nor an employer, nor the union local had told Mr. Macomber that Workforce Development application or weekly claims were waived while Mr. Macomber participated in union-facilitated training. Mr. Macomber was at all relevant times aware that he had not received unemployment insurance benefits in connection with the weeks that ended February 26, March 5 and July 2, 2016. Mr. Macomber had elected not to contact Workforce Development about those weeks because he knew he had an outstanding overpayment that would affect his receipt of benefits.

On Friday, July 29, 2016, Mr. Macomber contacted Workforce Development and asked why he had not received unemployment insurance benefits for the week that ended July 23, 2016. At that time, the Workforce Development representative told Mr. Macomber he had not received benefits because he had not reactivated his claim. Following the telephone call to Workforce Development, Mr. Macomber followed the application process to reactivate his claim for benefits and established an additional claim that was deemed effective July 24, 2016.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code section 871 IAC 24.2(1)(e) and (g) provide as follows:

Procedures for workers desiring to file a claim for benefits for unemployment insurance. 24.2(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:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

The department retains the ultimate authority to choose the method of reporting and payment.

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.

The individual shall set forth the following:

- (1) That the individual continues the claim for benefits;
- (2) That except as otherwise indicated, during the period covered by the claim the individual was unemployed, earned no wages and received no benefits, was able to work and available for work;
- (3) That the individual indicates the number of employers contacted for work;
- (4) That the individual knows the law provides penalties for false statements in connection with the claim;
- (5) That the individual has reported any job offer received during the period covered by the claim;
- (6) Other information required by the department.

The evidence in the record fails to establish good cause to allow retroactive benefits for the week that ended March 5, 2016. At the time of the initial application in January 2016, Workforce Development provided Mr. Macomber with appropriate information regarding making weekly claims and reactivating a lapsed claim. Mr. Macomber did not read some of that information and did not follow any of it. Mr. Macomber's request for retroactive benefits for the week that ended March 5, 2016 is denied.

DECISION:

The August 2, 2016, reference 07, decision is affirmed. Good cause does not exist to allow retroactive benefits for the week that ended March 5, 2016. The claimant's request for retroactive benefits is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs