

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ANGELA I ERNEST
Claimant

APPEAL NO: 18A-UI-06240-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 09/24/17
Claimant: Appellant (4)

Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits
Iowa Code § 96.6(1) – Filing Claims

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 30, 2018, (reference 08) unemployment insurance decision that denied retroactive benefits. The claimant was properly notified about the hearing. A telephone hearing was held on June 22, 2018. The claimant participated personally. Claimant Exhibit A was received into evidence.

The administrative law judge took official notice of the administrative records including the fact-finding documents and the claimant's weekly continued claim history (KCCO). Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant's request for retroactive benefits for the two-week period ending May 26, 2018 be granted?

FINDINGS OF FACT:

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

The claimant filed an original claim effective September 24, 2017. A review of the claimant's weekly continued claims in the administrative file confirm the claimant knows the procedure of how and when to file her weekly continued claims. When the claim was filed, the claimant was given the option of reading the Unemployment Insurance Handbook online or a hardcopy, and the claimant agreed that she would read and understand the handbook. The Unemployment Insurance Handbook includes instructions for properly filing claims and informs claimants that failure to follow the instructions can lead to a denial of benefits. The handbook also informs claimants that they should call IWD customer service for help if they don't understand the information in the handbook. She stated she read the paper or online version of the Unemployment Insurance Benefits Handbook as instructed when she established her unemployment insurance claim.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part the days and hours for filing a claim and weekly claim reporting:

File a Claim

Hours: Sunday through Friday, 8:00 am to 4:30 pm
www.iowaworkforcedevelopment.gov
<https://uiclaims.iwd.iowa.gov/UIInitialClaim/>

Weekly Claim Reporting

Hours: Sunday 8:00 am – 11:30 pm and Monday through Friday 8:00 am through 5:30 pm
<https://uiclaims.iwd.iowa.gov/weeklyclaims/>

The claimant's mother was in a car accident and hospitalized from May 18, 2018 until May 20, 2018. The claimant stayed with her mother until her release and forgot to file her weekly continued claim for the week ending May 19, 2018. The claimant did not realize that she could file the claim after Sunday for the week that had previously ended. Consequently, she made no efforts to file her weekly continued claim. The claimant forgot to file her claim on Sunday, May 27, 2018 and then did not receive an anticipated payment as expected. She contacted IWD for guidance on reopening her claim on May 29, 2018. This was still within the prescribed period to make a weekly continued claim for the week ending May 26, 2018.

The claimant earned no wages, vacation or holiday pay during the two-week period ending May 26, 2018. She was able and available for work.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim or show good cause for the failure to do so to support a request for retroactive benefits. Iowa Admin. Code r. 871-24.2(1)g. . Good cause involves circumstances beyond the claimant's control that prevent a claimant from filing a prompt and proper claim.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the

trial, their motive, candor, bias and prejudice. *Id.* Assessing the credibility of the claimant and reliability of the evidence in conjunction with the applicable burden of proof, as shown in the factual conclusions reached in the above-noted findings of fact, the administrative law judge concludes that the claimant has failed to establish a good cause reason for the week ending May 19, 2018.

The credible evidence presented does not support the claimant filing or making attempts to file a weekly continued claim for the week ending May 19, 2018 when she forgot after caring for her mother in the hospital. Therefore, the administrative law judge concludes the claimant has failed to establish a good cause reason for failing to file her continued weekly claim for the one week ending May 19, 2018. However, the claimant attempted to timely file her weekly claim in a timely manner the next week. The claimant was unable to because the claim closed after one week of failing to file a continued weekly claim. The claimant attempted to receive assistance on May 29, 2018 for completing her weekly continued claim for the week ending May 26, 2018, which was within the prescribed period to file a weekly continued claim for that week. Based on the evidence presented, the claimant has shown a good cause reason for failing to file her weekly continued claim for the one week ending May 26, 2018. Therefore, the claimant's request for retroactive benefits for the one week ending May 26, 2018, is allowed, provided the claimant is otherwise eligible.

DECISION:

The May 30, 2018, (reference 08) decision is modified in favor of the claimant. The request for retroactive benefits for the week ending May 19, 2018 is denied. The request for retroactive benefits for the week ending May 26, 2018 is granted.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs