

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JONATHAN M BRUEN
Claimant

APPEAL NO. 13A-UI-02813-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/12/14
Claimant: Appellant (4)**

871 IAC 24.2(1)(3) & (g) – Retroactive Benefits

STATEMENT OF THE CASE:

Jonathan Bruen filed a timely appeal from the March 5, 2014, reference 01, decision that denied his request for retroactive benefits for the period of February 9, 2014 through March 1, 2014. After due notice was issued, a hearing was held on April 4, 2014. Mr. Bruen participated. The administrative law judge took official notice of the Agency's administrative file (DBRO, KCCO, and the claimant's March 4, 2014 contact with the agency).

ISSUE:

Whether the claimant is eligible for retroactive benefits for the period of February 9, 2014 through March 1, 2014.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jonathan Bruen established a claim for benefits via the Internet and that was effective January 12, 2014. At the time Mr. Bruen established his claim, he received instructions to make a weekly claim for benefits. Mr. Bruen used those instructions on January 22, 2014 to make a weekly claim for benefits for the week ending January 18, 2014. Mr. Bruen then did not take additional steps to make an additional weekly claim for benefits until February 10, 2014. Mr. Bruen spoke to a Workforce Development representative that day about difficulties he had been having in using the on-line claim system. The Workforce Development representative assisted Mr. Bruen in filing a claim for benefits for the weeks ending January 25, February 1, and February 8, 2014. A few days later, Mr. Bruen attempted to log on to the Internet claim system and received a message that his username and/or password were incorrect. Mr. Bruen did make a claim for benefits, via the internet, the voice response unit, or by speaking with a Workforce Development representative, for the weeks ending February 15, February 22, or March 1, 2014. Mr. Bruen did not immediately contact the agency regarding this issue because he was busy with personal matters concerning his wife's pregnancy. Mr. Bruen lives in Van Meter, about 23 miles from Des Moines.

On February 20, Mr. Bruen sent an email message to Workforce Development explaining his difficulties in using the on-line claim reporting system. Mr. Bruen did not receive a response to his email.

Mr. Bruen did not take any further action on the matter until March 4, 2014, when he called Workforce Development and received instructions to file the claim as if he was filing a new claim. Mr. Bruen had delayed additional contact with the agency due to his wife's pregnancy issues. The Workforce Development representative who spoke to Mr. Bruen on March 4, 2014, documented that contact and indicated "Alert – Autoprocessed Claim With Claimant Comments...This is a transitional Claim. Tried to file sooner but could not get online. I am Filing this claim per phone call with your office." Despite that note, no claim for benefits was documented for Mr. Bruen for the weeks ending February 15, February 22, or March 1, 2014.

On March 15, Mr. Bruen used the instructions he had received on March 4 instructions and was able to file a claim for the weeks ending March 8 and March 15, 2014.

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.

Mr. Bruen is requesting benefits for the weeks ending February 15, February 22, and March 1, 2014. Mr. Bruen's telephone contact with the Workforce Development representative should have been sufficient to make a claim for the week ending March 1, 2014. A retroactive claim for the week ending March 1, 2014 is allowed. Mr. Bruen's February 20, 2014 email was insufficient to establish a claim for benefits for the weeks ending February 15 or February 22, 2014. In connection with those two weeks, Mr. Bruen had the ability to telephone Workforce Development for immediate assistance or to use the voice response unit. Mr. Bruen did neither in connection with those two weeks because he was busy with other matters. Retroactive benefits are denied for the weeks ending February 15 and February 22, 2014.

DECISION:

The claims deputy's March 5, 2014, reference 01, decision is modified as follows. Retroactive benefits are denied for the weeks ending February 15 and 22, 2014. Retroactive benefits are allowed for the week ending March 1, 2014.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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