

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT O BERRY
Claimant

APPEAL 18A-UI-03587-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/18/18
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, Robert O. Berry, filed an appeal from the March 8, 2018, (reference 03) unemployment insurance decision that denied his request for retroactive benefits. The claimant was properly notified about the hearing. A first hearing was scheduled for April 13, 2018, but postponed due to the claimant's hospitalization. A telephone hearing was held on May 1, 2018. The claimant participated personally. Jessie Berry also participated with the claimant. The administrative law judge took official notice of the administrative records including the fact-finding documents. 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 be granted for the two-week period ending March 3, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an original claim effective February 18, 2018. He did not file continued claims by online web application for the two-week period ending March 3, 2018.

The claimant earned \$374.00 in wages before separation occurred for the week of February 18, 2018 through February 24, 2018. When the claimant made an application for retroactive benefits, he stated he didn't know he had to make weekly continued claims, and that is why he did not file. At the hearing, he stated he attempted to file on February 26, 2018, within the prescribed period to make a weekly continued claim but did not have confirmation or details of his claim submission. He also stated he had issues with his log on information but did not contact IWD until March 5, 2018 about it. His wife, Jessie Berry, stated the claimant misunderstood the instructions on weekly continued claims.

For the week ending March 3, 2018, the claimant did not earn any wages and was able to and available for work. He did not make his weekly continued claim personally but contacted IWD on March 5, 2018 and spoke to a male IWD representative who told the claimant he would enter in both the week ending February 24, 2018 and March 3, 2018, and the claimant would be paid on Thursday for benefits. The claimant put his phone on speakerphone and had the representative confirm to Mrs. Berry that the claims had been entered. For unknown reasons, they were not entered and he was not paid for the weeks as informed by the representative. On March 7, 2018, administrative records confirm the claimant made an application for retroactive benefits for the two week period ending March 3, 2018 (see fact-finding documents).

When he opened his claim, the claimant agreed that he would read and understand the handbook. He was given a hardcopy when he established his unemployment insurance claim at the local office in Des Moines. The claimant stated he did not read all of the handbook. The Unemployment Insurance Handbook includes instructions for properly filing claims and informs claimants that failure to follow the instructions could result in 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.

The December 2017, version of the *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 19 and 20:

Filing Weekly Claims

How to File

After you file your initial claim, file weekly claims online at iowaworkforcedevelopment.gov for every week you are unemployed or your hours are reduced. You must file a weekly claim for any week that you want payment even if your eligibility is being decided or you have an appeal pending.

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- Are currently unemployed or working reduced hours
- Are able to work and available for work
- Have not refused any job offers or referrals to a job
- Are actively looking for work (unless waived)
- Are reporting any pay or pension payment

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Start of UI claim week one						Last day of week one (no filing)
First day to file week one	File for week one	File for week one	File for week one	File for week one	Last day to file for week one	Last day of week two (no filing)
First day to file week two	File for week two	File for week two	File for week two	File for week two	Last day to file for week two	Last day of week three (no filing)
First day to file week three	File for week three	File for week three	File for week three	File for week three	Last day to file for week three	Last day of week four (no filing)

When to File

The current week is the week that just ended on Saturday. Weekly claims must be filed 8 am Sunday through 5:30 pm Friday for the prior week only. This means individuals have six days to file the previous week's claim. See the chart above for the days available to file. Weekly claims can be filed online using a mobile device or computer at <https://uiclaims.iwd.iowa.gov/weeklyclaims/>.

Delay in filing your weekly claim could result in denial of benefits.

IMPORTANT: You will receive confirmation that the claim has been processed successfully. If you don't receive confirmation, the process must be repeated until the claim has been successfully submitted.

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.

The credible evidence presented does not support the claimant filing or making attempts to file his weekly continued claim for the week ending February 24, 2018. The claimant's explanation at the hearing, compared with his wife's testimony and his application for retroactive benefits were conflicting and inconsistent. The claimant had no available details about filing the claim for the week, or confirmation of a successful claim. Therefore, the administrative law judge concludes the claimant has failed to establish a good cause reason for failing to file his continued weekly claim for the one week ending February 24, 2018.

However, the claimant attempted to timely file his weekly claim in the next week when he contacted IWD on March 5, 2018 for assistance in filing his weekly continued claim for the week ending March 3, 2018. The claimant was still within the prescribed period to complete his weekly continued claim. The claimant was assured by the IWD representative that his claims for the following two weeks had been manually entered and he would be paid. This was incorrect guidance as the claims were not entered for unknown reasons. Accordingly, the administrative law judge concludes the claimant reasonably relied upon the guidance received from the advisor on March 5, 2018 and did not take additional steps to complete his weekly continued claim for the week ending March 3, 2018.

Based on the evidence presented, the claimant has shown a good cause reason for failing to file his weekly continued claim for the one week ending March 3, 2018. Therefore, the claimant's

request for retroactive benefits for the one week ending March 3, 2018, is allowed, provided the claimant is otherwise eligible.

DECISION:

The March 8, 2018, (reference 03) unemployment insurance decision is modified in favor of claimant/appellant. The claimant's request for retroactive benefits is granted for the one week ending March 3, 2018, and denied for the one week ending February 24, 2018.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn