

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MIGUEL A MENDEZ**  
Claimant

**APPEAL 21A-UI-07027-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
EMPLOYER

**OC: 12/06/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(4), (5) – Determination of Benefits  
Iowa Admin. Code r. 871-23.2(2) – Definition of Wages

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 1, 2021 (reference 01) decision that denied the claimant's request to add wages to his monetary record between July 1, 2019 and June 30, 2020. After due notice was issued, a telephone hearing was held on May 18, 2021. Claimant participated personally. Language Link provided language interpretation services to the claimant. Mark Carson testified as a witness for the claimant. The employer participated through witness Melissa Lewien. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Was the claimant's request to add wages to his monetary record properly denied?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an original claim for unemployment insurance benefits effective December 6, 2020. His base period wages from this employer included wages reported in the third quarter of 2019 in the amount of \$5,614.00; in the fourth quarter of 2019 in the amount of \$5,543.00; in the first quarter of 2020 in the amount of \$635.00; and in the second quarter of 2020 in the amount of \$8,244.00. Both parties agree with the amount of wages reported in each quarter.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.3(4) provides:

4. Determination of benefits. 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%

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 Code section 96.3(5)a provides:

a. Duration of benefits. The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off" indicator is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

Iowa Admin. Code r. 871-23.2(2) provides:

Definition of wages for employment during a calendar quarter.

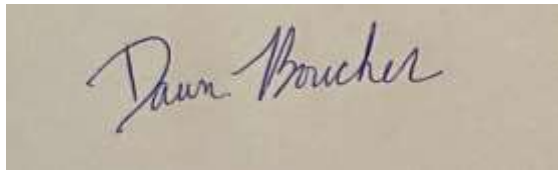
(2) Wages paid. Wages for employment during a calendar quarter consist of wages paid during the calendar quarter. Wages earned but not paid during the calendar quarter shall be considered as wages for employment in the quarter paid. The Employer's Contribution and Payroll Report, Form 65-5300, shall be used as prima facie evidence of when the wages were paid. If the wages are not listed on the 65-5300, they shall be considered as paid:

- a. On the date appearing on the check.
- b. On the date appearing on the notice of direct deposit.
- c. On the date the employee received the cash payment.
- d. On the date the employee received any other type of payment in lieu of cash.

Both parties agree that the amount of wages reported in the quarters listed above are correct. As such, the claimant's request to have wages added was properly denied.

**DECISION:**

The March 1, 2021 (reference 01) decision is affirmed. The claimant's request to add wages from July 1, 2019 through June 30, 2020 was properly denied.

A handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive, flowing style.

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Dawn Boucher  
Administrative Law Judge

May 25, 2021  
Decision Dated and Mailed

db/ol