

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL W HOLM
Claimant

APPEAL NO: 13A-UI-13208-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/25/12

Claimant: Appellant (2/R)

Public Law 110-252 – Emergency Unemployment Compensation
Section 96.19-20 – Definition of Exhaustee

STATEMENT OF THE CASE:

Michael W. Holm (claimant) filed an appeal from a decision of a representative dated November 22, 2013 (reference 02), which concluded that the claimant was ineligible for emergency unemployment compensation (EUC) as of June 9, 2013 because he was monetarily eligible for a regular unemployment insurance claim in the state of Nebraska. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on December 26, 2013, in conjunction with one related appeal, 13A-UI-13209-DT. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

As of June 9, 2013 is the claimant eligible to receive EUC benefits from Iowa or regular unemployment insurance benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits in Iowa effective November 12, 2012. The claimant exhausted his regular benefits in Iowa as of April 6, 2013. He then reopened his claim with an additional claim effective June 6, 2013 and began receiving EUC benefits. The representative's decision denied benefits based on an assumption he was eligible in Nebraska for regular benefits effective June 6, 2013. The claimant has worked for the same company since 2007. He rarely works in Nebraska. The Agency relied on some information from Nebraska indicating that he had \$5,543.68 in wage credits in the third quarter 2012. He did work in Nebraska for about two weeks in July 2013 and about two weeks in August 2013, but denies working in Nebraska in the third quarter 2012. He has previously been the victim of some identity theft, with some wage credits previously being reported for him in the state of Texas, where he has never worked. He provided some information indicating that since April 1, 2012 he had no wage credits in Nebraska in his employment with his regular employer other than in the third quarter 2013.

The additional wage credits from Nebraska in the third quarter 2012 which were not attributable to the claimant may have contributed to that quarter being determined as the high quarter of his base period, and could have had an effect on the benefit level which was paid to the claimant.

REASONING AND CONCLUSIONS OF LAW:

The Emergency Unemployment Compensation (EUC) program was created by Public Law 110-252, Title VI. This new temporary unemployment insurance program provides up to 13 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular unemployment compensation benefits.

In order to receive EUC, a person must be an "exhaustee" within the meaning of unemployment insurance law. Pursuant to Iowa Code section 96.19(20), a person is not an "exhaustee" if he is monetarily eligible for regular unemployment insurance benefits in Iowa or another state.

Because when the wage credits not earned by the claimant in Nebraska are excluded, the claimant is not monetarily eligible to receive regular unemployment insurance benefits as of June 9, 2013 in Nebraska, he is an "exhaustee" for purposes of receiving EUC. As of June 9, 2013 the claimant is eligible to receive EUC benefits based on his Iowa claim.

An issue as to whether the claimant's benefits were erroneously calculated using an incorrect high quarter balance due to wage credits not attributable to the claimant arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The decision of the representative dated November 22, 2013 (reference 02), is reversed. The claimant is eligible to receive Emergency Unemployment Compensation benefits from Iowa as of June 9, 2013. The matter is remanded to the Claims Section for investigation and determination of the high quarter wage issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs