

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEREK P WESTON
Claimant

APPEAL NO. 11A-UI-07365-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/03/10
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Derek Weston filed a timely appeal from the May 26, 2011, reference 01, decision that denied his request for retroactive benefits for the 10-week period ending December 11, 2010. After due notice was issued, a hearing was held on June 20, 2011. Mr. Weston participated. The administrative law judge took official notice of the Agency's administrative file reference 01 supplemental documents that led to the May 26, 2011, reference 01, decision. Exhibit A was received into evidence.

ISSUE:

Whether the claimant is eligible for retroactive benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Derek Weston established a claim for unemployment insurance benefits that was effective October 3, 2010. Mr. Weston asserted to the Agency that there were wages missing from his base period wage credits. Without those additional wages, Mr. Weston had insufficient base period wages to be eligible for unemployment insurance benefits. Under the circumstances, Mr. Weston could not use the weekly claim reporting system while he waited for the additional wages issue to be resolved. A Workforce Development advisor directed Mr. Weston to keep track of his job search contacts so that he could produce them as soon as the additional wages issue was resolved.

Mr. Weston obtained new employment in December 2010. The additional wages issue was resolved in January and Mr. Weston was notified of this on or about January 10, 2011.

Mr. Weston took no additional steps to report his job contacts for the period of October 3, 2010 through December 11, 2010 until May 6, 2011, when he provided his job contact information and signed a State of Fact document in an effort to claim benefits for the period in question. Mr. Weston advised the Agency at that time that he had not taken steps to report his claim information earlier because he had become re-employed.

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.

[Emphasis added.] The weight of the evidence indicates that Mr. Weston unreasonably delayed four months, from January to May, before reporting his job search information and failed to take timely steps to continue his claim as he had been directed. Because Mr. Weston failed to take appropriate and timely steps to continue his claim, he is ineligible for benefits for the period of October 3, 2010 through December 11, 2010.

DECISION:

The Agency representative's May 26, 2011, reference 01, decision is affirmed. The claimant did not take appropriate and timely steps to continue his claim for benefits as directed and is not eligible for benefits for the period of October 3, 2010 through December 11, 2010.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs