

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRAIG D SMITH
Claimant

APPEAL 18A-UI-05609-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 02/18/18
Claimant: Appellant (2)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the May 1, 2018 (reference 01) unemployment insurance decision that denied his request for retroactive benefits for the period of April 15, 2018 through April 28, 2018. The claimant was properly notified of the hearing. A telephone hearing was held on June 4, 2018. The claimant participated personally, along with witness Raquel Smith. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did the claimant file a timely appeal?
Should the claimant's request for retroactive benefits be granted for the two-week period from April 15, 2018 through April 28, 2018?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

Claimant filed an initial claim for benefits effective February 18, 2018. Claimant is on a temporary layoff. His claim was reopened effective April 29, 2018.

A decision dated May 1, 2018 (reference 01) found that claimant's retroactive benefits request was denied for the two-week period from April 15, 2018 through April 28, 2018. This decision was mailed to the claimant at an address of P.O. Box 125, Ollie, IA 52576. Claimant has never used this address and does not receive mail at this address; therefore, claimant never received this unemployment insurance decision that denied him retroactive benefits. He learned that he was denied benefits on or about Friday, May 11, 2018 when he spoke to an Iowa Workforce Development ("IWD") representative over the telephone. He mailed in a written appeal of the decision on May 16, 2018.

Claimant attempted to file his weekly-continued claim for the benefit week-ending April 21, 2018 online; however, his personal identification number ("PIN") did not work. He called IWD on

Monday, April 23, 2018 in order to file his weekly-continued claim over the telephone. He gave the IWD representative his information for filing his weekly-continued claim over the telephone and believed that the weekly-continued claim for the week-ending April 21, 2018 had been filed during this telephone conversation.

Claimant attempted to file his weekly-continued claim for the week-ending April 28, 2018 online; however, he was unable to do so and did not receive a confirmation that the weekly-continued claim was processed correctly. Claimant contacted an IWD representative by telephone on Monday, April 30, 2018 in order to file his weekly-continued claim. He gave the IWD representative his information for filing his weekly-continued claim over the telephone and believed that the weekly-continued claim for the week-ending April 28, 2018 had been filed. Claimant did not earn any wages, holiday pay, vacation pay or pension pay for the two-week period ending April 28, 2018.

REASONING AND CONCLUSIONS OF LAW:

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

The first issue is whether the claimant filed a timely appeal. The administrative law judge finds that the claimant did file a timely appeal.

Iowa Code § 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of § 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to § 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to § 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

An appeal must be filed within ten days after notification of that decision was mailed. Iowa Code § 96.6(2). The Iowa Supreme Court held that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979). In this case, the decision was not mailed to the claimant at his correct address of record.

As such, the claimant has shown good cause for failure to comply with the jurisdictional time limit to file an appeal and his appeal is considered to be timely. Iowa Code § 96.6(2).

The next issue is whether the claimant's request for retroactive benefits for the two-week period beginning April 15, 2018 and ending April 28, 2018 should be granted. The administrative law judge finds that the request should be granted, provided claimant is otherwise eligible.

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. Iowa Admin. Code r. 871-24.2(1)g. For each week the claimant remains totally or partially unemployed, they must file a weekly-continued claim to show they are available for work, report any wages, and otherwise establish eligibility for that past week of benefit payment. This process in filing a weekly-continued claim must be done sometime between Sunday at 8:00 a.m. to 11:30 p.m. and Monday through Friday at 8:00 a.m. through 5:30 p.m. If a claimant does not file a weekly-continued claim for one week for any reason, the process must start over by reactivating the initial claim no later than Friday at 4:30 p.m.

The April of 2018 *Unemployment Insurance Benefits Handbook*, provides at pages 13 and 14:

Claim Effective Date

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed. The effective date of a claim will not be changed for applications that were not filed in a timely manner.

and

Reactivating a Claim

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week they want to start collecting benefits again. Any employment during the break must be reported. If any weekly claim filing is missed during the claim year, an individual must file an initial claim application to reactivate their claim. This would apply even if 1 week is not filed timely.

The April of 2018 *Unemployment Insurance Benefits Handbook*, provides at pages 20 - 21:

Filing Weekly Claims

How to File

After you file your initial claim, file weekly claims online at www.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. Payment will not be made for any weeks that are not timely filed. If a weekly claim filing is missed for one or more weeks, a new initial claim application must be filed. It is your responsibility to check the status of your claim during the week to ensure the prior week has been recorded.

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	Last day to file for week one	Last day of week two (no filing)			
First day to file 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	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.

Elsewhere in the April of 2018 version of the handbook at page 8, contact information includes days and hours for filing an initial claim (including reopening an initial claim) and weekly-continued claim reporting:

File a Claim

Hours: Sunday through Friday, 8:00 am to 4:30 pm
www.iowaworkforcedevelopment.gov
<https://uiclaims.iwd.iowa.gov/UIInitialClaim/>

Weekly Claim Reporting

Hours: Sunday 8:00 am – 11:30 pm and Monday through Friday 8:00 am through 5:30 pm
<https://uiclaims.iwd.iowa.gov/weeklyclaims/>

Good cause pursuant to Iowa Admin. Code r. 871-24.2(1)g involves circumstances beyond the claimant’s control that prevent a claimant from filing a prompt and proper claim. The Unemployment Insurance Benefits Handbook states: “You must file a weekly claim for any week that you want payment[.]” 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 Unemployment Insurance Benefits Handbook informs claimants on page 20: “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.” The handbook further states, “[Y]ou 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.”

In this case, the claimant attempted to file his weekly-continued claim for the week-ending April 21, 2018; however, there was a computer error and his PIN did not work. He immediately contacted IWD the following day and reasonably believed that his weekly-continued claim was

filed over the telephone. This is considered a good cause reason and retroactive benefits for the one-week period ending April 21, 2018 are granted, provided claimant is otherwise eligible.

When claimant attempted to file his weekly-continued claim for benefits online for the week-ending April 28, 2018, his initial claim was locked due to inactivity (in failing to properly file the week prior because the IWD representative did not file his weekly-continued claim over the telephone). Claimant telephoned an IWD representative immediately the next day, whom he believed was filing his weekly-continued claim for him for the week-ending April 28, 2018. However, his initial claim had already been locked due to the break in reporting from the previous week and the IWD representative could not file a weekly-continued claim for him for the week-ending April 28, 2018 due to the locked status on his account.

Claimant believed that when he contacted the IWD representative on April 30, 2018, that the representative was filing the claim for the week-ending May 28, 2018 for him. Therefore, claimant has shown a good cause reason for failing to file his weekly-continued claim for the week-ending April 28, 2018. Claimant's request for retroactive benefits for the one-week ending April 28, 2018 is granted, provided he is otherwise eligible.

DECISION:

The claimant filed a timely appeal. The May 1, 2018 (reference 01) unemployment insurance decision is reversed. Claimant's request for retroactive benefits is granted for the two-week period beginning April 15, 2018 and ending April 28, 2018, provided he is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs