

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARGO M SHANAHAN
Claimant

APPEAL 15A-UI-08814-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/28/15
Claimant: Appellant (4)**

871 IAC 24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 4, 2015, reference 02, decision that denied the request for retroactive benefits without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. After due notice was issued, a telephone conference hearing was held on August 27, 2015. Claimant participated.

ISSUE:

The issue is whether claimant's request for retroactive benefits should be granted.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed a claim effective June 28, 2015. She believed she was given a piece of paper that told her not to take any further action until she received paperwork in the mail. All agency documents tell claimant's to continue to file their weekly claims no matter what. The claimant was out of the state until July 14. When she returned she attempted to file her weekly claim but was not able to do so because the agency was in the process of changing the domain from .org to .gov. The claimant's was not given assistance to file her claim when she sought assistance from IWD on or about July 15.

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.

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) § 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:

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

Claimant's assumption that she should not file weekly claims until she received paperwork from the agency is simply not correct. No IWD employee would tell an employee with a pending claim not to make a weekly claim. When she did contact the agency for assistance she was not given the help she needed to file the claim due to change in the domain name. Thus, retroactive benefits are granted for the two-week period ending July 25, 2015 and are denied for the two-week period ending July 11, 2015. .

DECISION:

The August 4, 2015, reference 02, decision is modified in favor of the claimant. The claimant's request for retroactive benefits is granted for the two week period ending July 25, 2015 and denied for the two-week period ending July 11, 2015.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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