

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SCOTT P BURKETT
Claimant

APPEAL 17A-UI-00866-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/27/16
Claimant: Appellant (2)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the January 17, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to January 1, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on February 14, 2017. Claimant participated.

ISSUE:

May the claim be backdated prior to January 1, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of November 27, 2016 and an additional claim date effective January 1, 2017, and desires to backdate the claim to December 4, 2016.

Claimant was temporarily laid off work the week beginning November 27, 2016. Claimant successfully filed for benefits and made his weekly claim the first week he was laid off. On December 10, 2016, claimant tried making his claim for the week beginning December 4 using the Interactive Voice Response unit (IVR). Claimant was unable to file his weekly claim using the IVR system. Claimant contacted his local Iowa Workforce office in Marshalltown the following Monday, December 12, and left a message for someone to call him back about the problem. Claimant did not hear anything and called the Marshalltown office again on December 15. Claimant then called the Des Moines office on December 20, 2016, and was told he needed to go online to file rather than using the IVR system.

Following these instructions, claimant went online on December 24, 2016, to try to file a claim for the week beginning December 18, 2016. However, claimant received a message that indicated his claim was no longer active. Claimant called both the Marshalltown and Des Moines offices and left messages for both offices to call him back the following week. Claimant was later able to reactivate his claim for the week beginning January 1, 2017. Claimant has

filed for unemployment insurance benefits in the past and reported he did nothing different this time than what he had previously done. Claimant is requesting his claim be backdated to cover the weeks beginning December 4, December 18, and December 25, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the claim is granted.

Iowa Code § 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1) and (2) 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.

The current *Unemployment Insurance Benefits Handbook*, provides in pertinent part on 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.

...

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.

The current *Unemployment Insurance Benefits Handbook*, provides in pertinent part on pages 19 and 20:

CLAIMING BENEFITS EACH WEEK

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 received

Eligibility can be certified online or by phone.

CERTIFYING ONLINE

The weekly continued claim is available on the IWD website at www.iowaworkforcedevelopment.gov. Individuals must follow the instructions to log in. Once logged in, eligibility questions are presented.

CERTIFYING BY TELEPHONE

The weekly continued claim is available by calling the Interactive Voice Response unit (IVR) at 800-850-5627. Pre-recorded messages will present the eligibility questions.

Individuals should listen carefully to each question and the instructions since the menu responses may be different. Some questions will instruct individuals to enter the pound key/hash tag (#) at the end of the answer.

IMPORTANT: Both systems (whether filing online or by phone) will confirm that the claim has been processed successfully. If disconnected before seeing or hearing this message, the process must be repeated until the claim has been successfully submitted.

The current week is the week that just ended on Saturday.

HOURS TO SUBMIT WEEKLY CONTINUED CLAIM

Individuals may submit a weekly continued claim:

Monday through Friday, 8:00 am to 6:00 pm 9:00 am Saturday to 11:30 pm,
Sunday

Note that the instruction to file weekly continued claims appears four pages later in the Handbook than the initial and reactivation claim filing instructions, *after* information about the fact-finding interview and appeal process. This chronology is reasonably confusing. Claimant was initially unable to file his weekly claim due to errors in with the reporting system. Inability to file an electronic claim due to the system being inoperable is considered a good cause reason for the delay in filing the claim.

Because claimant was unable to successfully file his weekly claim for several weeks, his claim became inactive and he needed to reactivate it in order to file for benefits online. The IWD Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Since claimant attempted to file the additional claim on Saturday, December 24, 2016, but was locked out of the online claim system, the delay is considered a good cause reason for having failed to file a claim. Backdating is allowed as claimant requested for the weeks beginning December 4, December 18, and December 25, 2016.

DECISION:

The January 17, 2017, (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the claim to December 4, 2016, is granted, as are retroactive benefits for the weeks beginning December 4, December 18, and December 25, 2016.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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