

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RAEANNA J MULLER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 16A-UI-12277-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/30/16
Claimant: Appellant (4)

Iowa Code § 96.3(4) – Determination of Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the monetary determination with an effective date of October 30, 2016 which was mailed on November 8, 2016. After due notice was issued, a telephone conference hearing was held on December 2, 2016. Claimant participated. Department Exhibit D1 was admitted. Claimant's Exhibit A was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits record.

ISSUE:

Is the monetary record dated November 8, 2016, correct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The monetary record with an effective date of October 30, 2016 which was mailed to the claimant on November 8, 2016 was incorrect. The base period for the claim year effective October 30, 2016 covers the third and fourth quarters of 2015 and the first and second quarters of 2016.

Claimant was employed full-time by Doherty Staffing from February of 2016 through July of 2016. Doherty Staffing is a temporary employment agency. She was assigned to work at Polaris Industries Inc., located in Spirit Lake, Iowa. Claimant became employed with Polaris Industries Inc. in July of 2016.

Claimant presented evidence of wages in the first and second quarters of 2016. See Claimant's Exhibit A. The wages listed in the claimant's monetary record for those quarters are incorrect and do not include the wages claimant received from Doherty Staffing.

The claimant's administrative record establishes that a corrected monetary record with an effective date of October 30, 2016 was mailed to the claimant on November 30, 2016, which includes wages from Doherty Staffing for the first and second quarters of 2016. This subsequent agency action has resolved this issue. Claimant may appeal the corrected monetary record with an effective date of October 30, 2016 which was mailed to her on November 30, 2016 by filing an appeal if she disagrees with it.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the monetary record with effective date of October 30, 2016 which was mailed to claimant on November 8, 2016 is incorrect. However, the monetary record has been corrected by subsequent agency action and the corrected monetary record with an effective date of October 30, 2016 was mailed to the claimant on November 30, 2016.

Iowa Code section 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Iowa Admin. Code r. 871-24.1(11) provides:

Base period. The period of time in which the amount of wages paid to an individual in insured work which determines an individual's eligibility for, and the amount and duration of, benefits. The base period consists of the first four of the last five completed calendar quarters immediately preceding the calendar quarter in which the individual's claim for benefits is effective with the following exception. The department shall exclude three or more calendar quarters from the individual's base period in which the individual received workers'

compensation or indemnity insurance benefits and substitute consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation or indemnity insurance benefits. This exception applies under the following conditions:

- a. The individual did not work in and receive wages from insured work for three calendar quarters of the base period, or
- b. The individual did not work in and receive wages from insured work for two calendar quarters and lacked qualifying wages from insured work to establish a valid claim for benefits during another quarter of the base period.

Claimant earned wages in the first and second quarters of 2016 but those wages were not included in her base period wages as listed in the monetary record with an effective date of October 30, 2016 which was mailed to her on November 8, 2016. Wages from Doherty Staffing were included and her monetary record was corrected by subsequent agency action and the monetary record with an effective date of October 30, 2016 was mailed to claimant on November 30, 2016. Claimant may appeal the corrected monetary record with an effective date of October 30, 2016 which was mailed to her on November 30, 2016 by filing an appeal if she disagrees with it.

DECISION:

The monetary determination with effective date of October 30, 2016 which was mailed on November 8, 2016 is incorrect and is modified in favor of appellant. The wages from Doherty Staffing were added to the base period wages by subsequent agency action. The corrected monetary record with an effective date of October 30, 2016 was mailed to claimant on November 30, 2016. Claimant may appeal the corrected monetary record with an effective date of October 30, 2016 which was mailed to her on November 30, 2016 by filing an appeal if she disagrees with it.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

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