

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**TERESA A DEAN  
1799 200<sup>TH</sup> ST  
ROCKFORD IA 50458**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-00914-RT  
OC: 11/28/04 R: 02  
Claimant: Appellant (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-4 – Determination of Benefits (Dependents)

STATEMENT OF THE CASE:

The claimant, Teresa A. Dean, filed a timely appeal from an unemployment insurance decision dated January 21, 2005, reference 06, denying claimant's request to change the dependents on her unemployment insurance claim. After due notice was issued, a telephone hearing was held on February 10, 2005, with the claimant participating. The claimant's daughter, Christianne Dean was available to testify for the claimant, but not called because her testimony would have been repetitive and unnecessary. There was no employer or respondent noticed in this appeal. The administrative law judge takes official notice of Iowa Workforce Development unemployment insurance records for the claimant. Department Exhibits One and Two were admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, including Department Exhibits One and Two, the administrative law judge finds: The claimant filed for unemployment insurance benefits on December 3, 2004 while at the local Iowa Workforce Development office in Charles City, Iowa. An Iowa Workforce Development worker filed the claimant's application on the computer on line. At the time, the Iowa Workforce Development worker asked the claimant if she was claiming any dependents. The worker did not specifically refer to a tax return. The claimant responded in the negative no because she was thinking of her W-2 tax form and claims no dependents on that. The claimant's on line monetary determination appears at Department Exhibit One and shows a date of December 3, 2004 and no dependents. The claimant saw this determination on December 3, 2004 but thought nothing of it because she had reported no dependents thinking of her W-2 tax form.

After reading an informational booklet on unemployment insurance benefits that she received from Iowa Workforce Development the claimant noted something about dependents. A friend asked the claimant if she had taken her daughter and the claimant said no. Because the claimant could have and should have claimed her daughter, she wrote a letter dated January 7, 2004 as shown at Department Exhibit Two. However, because of bad weather the claimant could not take it to her local workforce development office until January 12, 2005 as shown also at Department Exhibit Two. These documents were faxed to Iowa Workforce Development and the decision from which the claimant now seeks to appeal was issued on January 21, 2005.

During the 2004 calendar year, the claimant's daughter was 21 and was a full-time student at a college or university. The claimant provided over one-half of her support in 2004. The claimant intends to take her daughter as a dependent deduction on her 2004 income tax return.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant should be permitted to add a dependent on her unemployment insurance claim. The administrative law judge concludes that the claimant should be permitted to add a dependent on her unemployment insurance claim.

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.

The administrative law judge concludes first that the claimant's daughter was a dependent and could have been taken on her unemployment insurance claim effective November 28, 2004. Iowa Code section 422.12(2) (c) provides that a dependent has the same meaning as provided by the Internal Revenue Code. This is confirmed by 871 IAC 24.2(1)(b)(8) that provides that a dependent is an individual who has been or could have been claimed for the preceding tax year on the claimant's income tax return or will be claimed for the current income tax year. The administrative law judge concludes that the claimant's daughter is a dependent. The claimant provides over one-half of her support. Although the claimant's daughter is 21, she was a full-time student in a college or university. The claimant intends to take her daughter as a dependent on her 2004 tax year. When the claimant filed for unemployment insurance benefits effective November 28, 2004, 2004 would have been the current income tax year. Accordingly, the administrative law judge concludes that the claimant's daughter is a dependent for unemployment insurance benefit purposes.

The administrative law judge further concludes that the claimant should be entitled to change her unemployment insurance claim to add a dependent. A monetary record was issued on line on December 3, 2004 as shown at Department Exhibit One. This is a final decision according to 871 IAC 24.9(1), but such a final decision can be changed if the claimant requests such a change within ten days of the date of the mailing of the monetary record or its publication on line. The claimant requested the reconsideration on January 12, 2005 by a letter dated January 7, 2005 as shown at Department Exhibit Two. The claimant could not immediately take her letter to the Iowa Workforce Development local office because of bad weather. The claimant had good cause for a delay in waiting from January 7, 2005 to January 12, 2005 to request a reconsideration. Further, the claimant credibly testified that when she first applied for benefits, she was assisted by an Iowa Workforce Development worker who filed the claimant's claim on line on the computer. He asked the claimant only if the claimant claimed any dependents and did not specifically refer to a tax return. The claimant said no because she was thinking of her W-2 tax form and not her actual tax return. Only after reading information about

unemployment insurance which she obtained from Iowa Workforce Development did the claimant realize that she could have and should have claimed her daughter as a dependent. Under these circumstances, the administrative law judge concludes that the claimant has demonstrated good cause for not requesting a redetermination of the dependent status within ten days. Accordingly, the administrative law judge concludes that the claimant has demonstrated good cause for the delay in requesting the reconsideration of her dependent status and since she has received a determination denying her request which is the decision from which the claimant herein appeals, the administrative law judge has jurisdiction to determine this matter.

For all the reasons set out above, the administrative law judge concludes that the claimant has demonstrated good cause for the delay in requesting a redetermination of the dependents on her monetary record and therefore her request is considered timely. Further, the administrative law judge concludes that the claimant demonstrated good cause for initially reporting the number of dependants incorrectly. Finally, the administrative law judge concludes that the claimant's daughter was a dependent. Therefore, the administrative law judge concludes that claimant's request to add a dependent to her unemployment insurance claim should be and it is hereby granted. The claimant's unemployment insurance claim shall be recomputed based upon the consideration of one dependent.

**DECISION:**

The representative's decision dated January 21, 2005, reference 06, is reversed. The claimant's request to add a dependent to her unemployment insurance claim should be, and hereby is, granted. The claimant's unemployment insurance claim shall be redetermined as a claim involving one dependent. Any additional unemployment insurance benefits to which the claimant is entitled because of this change during the period for which she has received unemployment insurance benefits should be paid to the claimant.

kjf/kjf