

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**TEMARA K FULLER**  
Claimant

**APPEAL 17A-UI-10013-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/10/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeal  
871 IAC 24.2(1)a & h(1) & (2) – Backdating

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the September 15, 2017, (reference 01) decision that denied her the request to backdate the claim for benefits prior to September 10, 2017. After due notice was issued, a hearing was held by telephone conference call on October 17, 2017. Claimant participated. Claimant's Exhibit A was received.

**ISSUE:**

Did the claimant file a timely appeal?

May the claim be backdated prior to September 10, 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 September 10, 2017 and desires to backdate her claim date to the first week in September, 2017 or the week that began August 27, 2017. The claimant's hours at work were reduced to a lack of work. She did not realize she could file a claim for benefits when her hours were reduced. No one told her not to file her claim for benefits. The claimant filed her claim during the week beginning September 10, 2017 when she realized that she could file for partial unemployment.

The department has not failed to recognize the expiration of the claimant's previous benefit year and there is not an interstate claim against another state which has been determined as ineligible.

When the claimant received the decision denying her request to backdate her claim for benefits, she went immediately to her local workforce office in Dubuque to file her appeal. Her initial appeal was filed prior to September 25, 2017, but was not received by the unemployment insurance bureau. When the claimant learned her appeal had not been received, she immediately filed another appeal.

## REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 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 section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 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 section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 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 section 96.8, subsection 5.

The claimant filed an appeal in a timely manner but it was not received by the agency. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

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

Iowa Code section 96.6(1) provides:

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

Effective Wednesday, July 12, 2017, for claims effective July 16, 2017:  
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) Section 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 files a claim for benefits.

(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:

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

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

The October 2016 and June 2017, versions of the *Unemployment Insurance Benefits Handbook*, provides in pertinent part 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.

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 he/she wants to start collecting benefits again. Any employment during the break must be reported.

Elsewhere in the June 17, 2017, version of the handbook at page 8, contact information includes days and hours for filing a claim and weekly claim reporting:

**File a Claim**

Hours: Monday through Friday, 8:00 am to 4:30 pm

[www.iowaworkforcedevelopment.gov](http://www.iowaworkforcedevelopment.gov)

<https://uiclaims.iwd.iowa.gov/UIInitialClaim/>

**Weekly Claim Reporting**

Hours: Saturday 9:00 am through Sunday 11:30 pm

[www.iowaworkforcedevelopment.gov](http://www.iowaworkforcedevelopment.gov)

The claim filing information was not included in the October 2016, handbook.

While the claimant may have presented reasons for backdating that would have previously been considered "sufficient grounds" to grant the request, effective July 12, 2017, Iowa Admin. Code r. 871-24.2(1)*h*(1) and (2) allows backdating for only the two reasons cited above. Neither of those reasons applies in this case. Accordingly, the backdating request must be denied.

**DECISION:**

The September 15, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant filed a timely appeal. The claimant's request to backdate the claim is denied.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/scn