

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRENDA M BENDER
Claimant

APPEAL 18A-UI-08388-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/29/18
Claimant: Appellant (1)

Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year
Iowa Code § 96.3(4) – Determination of Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 3, 2018, monetary determination. After due notice was issued, a telephone conference hearing was held on August 28, 2018. Claimant participated.

ISSUE:

Is the monetary record dated August 3, 2018, correct?
Is the claimant monetarily eligible for benefits effective July 29, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The base period for the claim year effective July 29, 2018, covers the last three quarters of 2017, and the first quarter of 2018. The monetary record lists the wage credits earned during those quarters as follows:

2 QTR 17	3 QTR 17	4 QTR 17	1 QTR 18
9,125.34	1,247.47	494.20	

The wages listed in the monetary record for those quarters are correct.

Claimant experienced a work-related injury on November 7, 2016. Claimant worked light duty until July 7, 2017, and was paid for her unused vacation time in the fourth quarter of 2017. Claimant filed a workers' compensation claim and received benefits. Claimant reached maximum medical improvement in March 2018, but her employer has not yet allowed her to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the monetary record is correct.

Iowa Code section 96.4(4)a-b-c provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "b" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

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.

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 "a", 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.

Claimant earned \$9,125.34 in her highest base period quarter. In order to be eligible for unemployment insurance benefits, claimant would need to establish she had total base period wages of at least 1.25 times the wages earned in her highest base period quarter, which in this

case would be \$11,406.68. Unfortunately, claimant's total base period wages amount to \$10,867.01. Claimant is not monetarily eligible for benefits at this time. However, claimant may be eligible for benefits in the future, as explained in the Decision section below.

DECISION:

The August 3, 2018, monetary determination is affirmed. The record is correct and claimant is not monetarily eligible at this time. As noted on the monetary determination, claimant is eligible to refile her claim after October 7, 2018, and at that time she may request to substitute consecutive calendar quarters immediately preceding the base period in which she did not receive workers' compensation benefits.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn