

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**ZAKIYA D JENKINS**  
Claimant

**APPEAL NO. 08A-UI-11442-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 10/19/08 R: 02**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year  
871 IAC 24.2(4)d(1) – Cancellation of Unemployment Insurance Claim  
Iowa Code § 96.3(4) – Determination of Benefits  
871 IAC 24.9(1)b – Dependents

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the December 4, 2008, reference 01, decision that denied benefits because of a lack of at least \$250.00 in insured wages during or after the prior claim year. After due notice was issued, a hearing was held on December 18, 2008. Claimant participated.

**ISSUE:**

The issue is whether claimant earned insured wages of \$250.00 or more during or after the previous benefit year and if she should be allowed to cancel the October 21, 2007 claim or add one dependent.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant did not earn at least \$250.00 in insured wages during or subsequent to the prior claim year beginning October 21, 2007. She acknowledged having thrown away the Facts About Unemployment booklet without reading it. No appeal from the Monetary Determination was filed to request either a change of the claim date or addition of a dependent. These issues were not disputed until after exhaustion of the claim and the filing for a second claim year.

The following is a comparison of benefits of the October 21, 2007 claim year and if that claim were to be cancelled and the effective date changed to March 2, 2008 when she became eligible for benefits after maternity leave and exhaustion of severance pay:

October 21, 2007: Claimant's weekly benefit amount (WBA) is \$347.00 and maximum benefit amount (MBA) is \$9,022.00. Since the second benefit year disqualification, the Extended Unemployment Compensation (EUC) is being paid from the 2007 claim. By keeping the 2007 claim if claimant earns \$250.00 in insured wages, she can requalify on the

October 19, 2008 claim and potentially draw all of those benefits (\$375.00 WBA and \$9,246.00 MBA), and possibly another extension if Congress allows.

March 2, 2008: If the 2007 claim is cancelled and made effective March 2, 2008 with one dependent, since there would be fewer quarters of wage credits available the claimant's WBA would be \$360.00 and MBA of \$9,360.00 compared to the 2007 claim of \$347.00 WBA and \$8,927.00 MBA. A possible EUC benefit amount would total \$7,488.00 and she would not be eligible on a subsequent claim because she would not have enough base period wage credits. Thus, the difference would be approximately \$10,000.00 less in potential benefits.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not eligible to receive benefits during the subsequent benefit year unless and until she earns \$250.00 in insured wages.

Iowa Code § 96.4-4 provides:

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

4. 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 subsection 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.

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 two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

Because the claimant did not earn at least \$250.00 in insured wages during or subsequent to the claim year beginning October 21, 2007, she is not eligible to receive benefits during the current claim year beginning October 19, 2008.

The claimant's request to change the claim date by cancellation or amendment and add a dependent is denied.

871 IAC 24.2(4)d provides:

Cancellation of unemployment insurance claim.

d. Other valid reasons for cancellation whether or not ten-day protest period has expired.

(1) The individual has an unexpired unemployment insurance claim in another state and is eligible for a remaining balance of benefits.

(2) The individual received erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department.

(3) The individual has an unexpired railroad unemployment insurance claim with a remaining benefit balance which was filed prior to the unemployment insurance claim.

(4) The individual exercises the option to cancel a combined wage claim within the ten days allowed by federal regulation.

(5) The individual has previously filed a military claim in another state or territory. Wages erroneously assigned to Iowa must be deleted and an interstate claim must be filed.

(6) Federal wages have previously been assigned to another state or territory or are assignable to another state or territory under federal regulation. Federal wages erroneously assigned to Iowa must be deleted and the appropriate type of claim filed.

(7) The Iowa wages are erroneous and are deleted and the wages from one other state were used, the claim shall be canceled and the wages returned to the transferring state.

871 IAC 24.2(4)c provides:

Cancellation of unemployment insurance claim.

c. Cancellation requests within the ten-day protest period. The claims section, upon review of the timely request and before payment is made, may cancel the claim for the following reasons:

(1) The individual found employment or returned to regular employment within the protest period.

(2) Cancellation would allow the individual to refile at the change of a calendar quarter to obtain an increase in the weekly or maximum benefit amount or the individual would receive more entitlement from another state.

(3) The individual filed a claim in good faith under the assumption of being separated and no actual separation occurred.

(4) The individual did not want to establish a benefit year because of eligibility for a low weekly or maximum benefit amount.

Iowa Code § 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.

871 IAC 24.9(1)b provides: Determination of benefit rights.

24.9(1) Monetary determinations.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

Upon further reflection, although claimant did not receive appropriate advice to wait to file her claim until after her child was born approximately three weeks later and within the same quarter, she did not take personal responsibility to read the Facts About Unemployment booklet or seek to add a dependent to her claim until after having exhausted all available benefits and appealing a second claim year denial.

**DECISION:**

The December 4, 2008, reference 01, decision is affirmed. The claimant is not eligible to receive benefits during the subsequent benefit year unless and until she earns \$250.00 in insured wages and the request to change the effective date of the claim or add a dependent to the October 21, 2007 claim year is untimely.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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