

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY J GARVIS
Claimant

APPEAL NO. 11A-EUCU-00430-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/02/10
Claimant: Appellant (2)

Section 96.3-4 – Monetary Determination Correction

STATEMENT OF THE CASE:

Gary Garvis filed an appeal from a monetary determination dated May 2, 2010, (corrected copy April 18, 2011) which listed the claimant as having one dependent. After due notice was issued, a telephone hearing was held May 25, 2011. The claimant participated personally.

ISSUE:

Is the monetary determination correct.

FINDINGS OF FACT:

The claimant filed a claim for benefits with an effective date of May 2, 2010. At that time the claimant's daughter was residing with him and legally dependent for tax purposes. Subsequently the claimant's daughter was married on November 27, 2010 and that time ceased to be his dependent. Subsequently the claimant realized that he had not notified the Agency of the change in the number of dependents and after doing so the Agency revised the claimant's claim for benefits deleting the claimant's daughter from Mr. Garvis' claim back to the original date of the claim, May 2, 2010, instead of the correct date that the daughter ceased to be a dependent on November 27, 2010. When Mr. Garvis subsequently received an overpayment determination he became aware of the Agency error. Mr. Garvis appealed that determination and a hearing was held before an administrative law judge on March 31, 2011. On April 8, 2011 an administrative law judge modified the February 9, 2011 monetary determination in favor of Mr. Garvis specifically finding that the claimant was entitled to one dependent from May 2, 2010 through November 27, 2010 and finding that after November 27, 2010 the claimant was entitled to claim zero dependents on his claim effective May 2, 2010. The administrative law judge also directed a re-calculation of benefits be made and benefits be adjusted accordingly.

Upon receipt of the corrected determination dated April 18, 2011, Mr. Garvis noted once again that the number of dependents listed on his claim continued to be listed as one instead of the zero dependents as previously indicated by Mr. Garvis and as determined by the administrative law judge decision dated April 8, 2011 (See 11A-UI-02581-H2T).

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that Mr. Garvis' correct number of dependents effective November 27, 2010 should be "zero." It should.

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 effect the validity of the original determination or 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.

Since Mr. Garvis filed a timely appeal from the corrected monetary determination dated April 18, 2011 specifically indicating his correct number of dependents as of November 27, 2010 to be zero and the decision of the administrative law judge dated April 8, 2011 find that after November 27, 2010 the claimant is entitled to claim zero dependents on his claim effective May 2, 2010, the administrative law judge concludes that the correct number of dependents as of November 27, 2010 is "zero."

DECISION:

The April 18, 2011 corrected monetary determination is reversed in favor of the appellant. After November 27, 2010 the claimant is entitled to claim zero dependents on his claim effective May 2, 2010. Re-calculation of benefits shall be made and benefit payments shall be adjusted accordingly.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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