

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JUAN E GAMBOA
Claimant

APPEAL 17A-UI-10156-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

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

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Juan E. Gamboa (claimant) filed a timely appeal from the September 25, 2017, reference 01, unemployment insurance decision that denied the request to backdate the claim for benefits prior to September 17, 2017. After due notice was issued, a telephone hearing was held on October 20, 2017. The claimant participated.

ISSUE:

May the claim be backdated prior to September 17, 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 17, 2017, and desires to backdate the claim to August 27, 2017. The claimant worked for the local school district and was a 9-month employee who elected to have his paychecks paid over a 12-month period. The claimant went to his local Iowa Workforce Development (IWD) office earlier in the summer and was advised not to file for benefits until after he received his last paycheck.

On September 1, 2017, the claimant returned to his local office and began to file a claim for benefits. However, he had to get information about his bank account for direct deposit and closed out his claim without completing it. He returned with his bank account information and gave it to an employee at the local office. The employer did not tell the claimant that his claim had not been completed, nor advise him about filing a weekly claim for benefits. The claimant believed he had completed his claim. The claimant had not previously filed for benefits and did not know he had to file a continued weekly claim for benefits. As he had not previously filed for benefits, the agency did not fail to recognize the expiration of a previous year's claim and the claimant did not file his claim in another state.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.6(1) provides:

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

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 administrative law judge is sympathetic to the claimant's struggle and his unfamiliarity with the unemployment insurance benefits process. However, 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 25, 2017, reference 01, unemployment insurance decision is affirmed. The claimant's request to backdate the claim to August 27, 2017 is denied.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn