

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GENEVA F EARSERY
Claimant

APPEAL 17A-UI-08894-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 06/25/17
Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

Geneva F. Earsery (claimant) filed an appeal from the August 11, 2017, reference 07, unemployment insurance decision that denied her request for retroactive benefits. After due notice was issued, a telephone conference hearing was held on September 20, 2017. The claimant participated. Department's Exhibits D1 and D2 were received.

ISSUES:

Is the appeal timely?

Should the claimant's request for retroactive benefits be granted for the three-week period ending August 5, 2017?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant filed an original claim effective June 25, 2017, with a reopened date of August 6, 2017. She did not file weekly continued claims for benefits for the three-week period ending August 5, 2017. The claimant successfully filed her continued weekly claim for benefits the first three weeks she claimed. However, shortly after filing, her phone was stolen. She did not report to her local office or the library to use the available public services to file her continued weekly claims for benefits. The claimant did not contact Iowa Workforce Development (IWD) until August 9, 2017, when she used her neighbor's phone to report that her personal phone was stolen and request retroactive benefits.

On August 11, 2017, an unemployment insurance decision denying the claimant's request for retroactive benefits was mailed to the claimant's last known address. She received the decision within three to four days. The notice contained a warning that an appeal needed to be filed by August 21, 2017. The claimant contacted customer service and spoke to a representative named Tom. He told her that everything on her claim was fine and she would receive her back

benefits. The claimant assumed this meant she did not need to file an appeal. On or about August 22, 2017, the claimant received her back benefits, but did not receive the amount she was expecting. She then contacted her local office and learned she needed to file an appeal. She filed her appeal on August 29, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely but her request for retroactive benefits is denied.

Iowa Code section 96.6(2) provides, in pertinent part:

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. . . . 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.

The claimant's failure to file an appeal within the appeal period was solely because of incorrect information received from an IWD customer service advisor. She found out about the misinformation upon receipt of her benefits and timely appealed after that point. This delay was prompted by and perpetuated by the agency. See, Iowa Admin. Code r. 871-24.35(2). Therefore, the appeal shall be accepted as timely.

Iowa Code § 96.6(1) provides:

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

In order to be eligible for weekly benefits, the claimant must file a continued weekly claim or show good cause for the failure to do so to support a request for retroactive benefits. Iowa Admin. Code r. 871-24.2(1)g. The claimant's failure to file her claims because of a lack of personal telephone or internet is an issue of personal responsibility. Her failure to file was not due to incorrect advice from IWD or issues with the IWD reporting system. The claimant has not shown good cause to support a request for retroactive benefits. Retroactive benefits are denied.

DECISION:

The claimant's appeal was timely filed. The August 11, 2017, reference 07, unemployment insurance decision is affirmed. The claimant's request for retroactive benefits is denied.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn