

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIGUEL A BURGOS
Claimant

APPEAL NO: 11A-UI-02356-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/21/10
Claimant: Appellant (1)

871 IAC 24.2(1)(h) – Backdate a Claim

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 25, 2011 determination (reference 06) that denied his request to backdate his reopened claim prior to December 5, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant's request to backdate his claim is denied.

ISSUE:

Should the claimant's request to backdate his reopened claim prior to December 5, 2010, be granted or denied?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of February 21, 2010. The claimant received permission from his supervisor to go to California in mid-September because he father was gravely ill. The claimant's father passed away on October 2. When the claimant returned to Iowa on October 7, 2010, he contacted the employer about returning to work. He then learned had no longer had a job, but did not receive a letter from the employer about his employment termination.

The claimant waited for the employer's letter. The claimant did not receive a letter from the employer. Finally during the week of December 5, the claimant went to his local Workforce office and was advised to reopen his claim. The claimant reopened his claim during the week of December 5 and requested that his claim be backdated to October when he returned to Iowa.

REASONING AND CONCLUSIONS OF LAW:

A claim for benefits is effective as of Sunday in the current calendar week in which a person files or establishes a claim for benefits. Claims can be backdated prior to the week in which the individual files if there are sufficient grounds to justify or excuse the delay in filing a claim. Sufficient grounds includes receiving incorrect information from a Workforce representative or if an employer intimidated a person to prevent the prompt filing of a claim. 871 IAC 24.2(1)(h).

The claimant did not establish sufficient grounds to backdate his claim. The facts do not establish the employer intimidated him or that he received incorrect information from a Workforce representative. The claimant did not realize he did not have to wait for a letter telling him why he his employment ended, but the employer did not give him any advice about unemployment insurance benefits. Under the facts of this case, the claimant's request to backdate his reopened claim to October 2010 is denied.

DECISION:

The representative's February 25, 2011 determination (reference 06) is affirmed. The claimant's request to backdate his reopened claim to October 2010 is denied. The effective date of his reopened claim is December 5, 2010.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css