

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GERARD L MCKIBBIN
Claimant

APPEAL 16A-UI-07373-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/03/16
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the June 22, 2016, (reference 02) unemployment insurance decision that denied the request to backdate the claim for benefits prior to June 19, 2016. After due notice was issued, a hearing was scheduled to be held by telephone conference call on July 22, 2016. Claimant participated.

ISSUE:

May the claim be backdated prior to June 19, 2016?

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 January 3, 2016, and an additional claim date effective June 19, 2016, and desires to backdate the claim to June 12, 2016. Claimant delayed filing the claim because the Unemployment Insurance Benefits Handbook is insufficiently clear about the deadline by which to file an additional claim. He attempted to, but was unable to file a claim over the weekend so filed the following work week.

REASONING AND CONCLUSIONS OF LAW:

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

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 reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(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:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 5:

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

REACTIVATING A CLAIM

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week they want to start collecting benefits again.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 9:

CLAIMING BENEFITS EACH WEEK

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment received

Eligibility can be certified online or by phone.

CERTIFYING ONLINE

The weekly continued claim is available on the IWD website at www.iowaworkforcedevelopment.gov. Individuals must follow the instructions to log in. Once logged in, eligibility questions are presented.

CERTIFYING BY TELEPHONE

The weekly continued claim is available by calling the Interactive Voice Response unit (IVR) at 800-850-5627. Pre-recorded messages will present the eligibility questions.

Individuals should listen carefully to each question and the instructions since the menu responses may be different. Some questions will instruct individuals to enter the pound key/hash tag (#) at the end of the answer.

IMPORTANT: Both systems (whether filing online or by phone) will confirm that the claim has been processed successfully. If disconnected before seeing or hearing this message, the process must be repeated until the claim has been successfully submitted.

The current week is the week that just ended on Saturday.

HOURS TO SUBMIT WEEKLY CONTINUED CLAIM

Individuals may submit a weekly continued claim:

Monday through Friday, 8:00 am to 6:00 pm 9:00 am Saturday to 11:30 pm, Sunday

Note that the instruction to file weekly continued claims appears four pages later in the Handbook than the initial and reactivation claim filing instructions, *after* information about the fact-finding interview and appeal process. This chronology is reasonably confusing. Further, there is no indication that a new, additional or reopened claim must be filed by the close of business on Friday of the week the unemployment begins.

DECISION:

The June 22, 2016, (reference 02) unemployment insurance decision is reversed. The claimant's request to backdate the claim to June 12, 2016, is granted, as are retroactive benefits for the same time period.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs