

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JULIE A HOKSBERGEN
Claimant

APPEAL 17A-UI-00600-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/01/17
Claimant: Appellant (2)**

Iowa Admin. Code r. 871-24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed an appeal from the January 11, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to January 1, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on February 8, 2017. Claimant participated. Claimant Exhibit A was admitted into evidence with no objection. Official notice was taken of the administrative record of claimant's benefit history, with no objection.

ISSUE:

Should the claim be backdated prior to January 1, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for benefits with an effective date of January 1, 2017, and desires to backdate the claim to December 25, 2016.

Claimant was on a temporary layoff for the week beginning December 25, 2016. On January 1, 2017, claimant attempted to file her weekly claim for benefits for the week ending December 31, 2016. Claimant Exhibit A. When claimant submitted her claim, it changed her weekly claim from the week ending December 31, 2016 to the week ending January 7, 2017. Claimant Exhibit A. Previously, the employer had usually opened her claims, although claimant testified she may have had to open her claim for the week ending September 3, 2016. Claimant was not aware that she had to open her claim prior to December 31, 2016. Claimant Exhibit A. Claimant had taken her daughter to the doctor and missed work on December 22 and 23, 2016. Claimant Exhibit A. Because claimant was absent from work on December 22 and 23, 2016, she did not receive the paperwork from the employer about filing her claim, which included having to reopen/open her claim prior to filing her weekly claim. Claimant Exhibit A. Claimant did not get the paperwork from the employer until she returned back to work, during the first week of January 2017. Claimant called Iowa Workforce Development (IWD) on January 3, 2017. The IWD employee told claimant her claim could be backdated, but it was ultimately denied. Claimant Exhibit A.

Claimant previously had filed a claim for benefits with an effective date of December 27, 2015. Claimant was not aware that her claim year expired on December 25, 2016. Claimant was not aware she had to file a new claim after her claim year expired. The employer used to open claimant's claims for benefits, but it has stopped opening her claims.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes 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.

Claimant was placed on temporary layoff for the week beginning December 25, 2016. Although claimant may have had to reopen her claim for the week beginning August 28, 2016, in the past the employer would open her claims and then she would just file for her weekly benefits. The employer has stopped its practice of opening claims for claimant. The employer attempted to inform claimant she had to open a new claim prior to December 31, 2016 by providing instructions to its employees; however, claimant was off work when the instructions were provided and she did not receive them until she had returned to work after the layoff. Claimant was unaware she had to initiate/reopen her claim before Saturday of the first week of unemployment. On January 1, 2017, claimant attempted to file her weekly claim for benefits for the week ending December 31, 2016. It is noted that the employer had always initiated claimant's prior claims, and although the employer attempted to provide her with instructions on how to file her claim for the week ending December 31, 2016, the employer did not get the instructions to claimant prior to her temporary layoff. Claimant has shown a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is granted

DECISION:

The January 11, 2017, (reference 01) unemployment insurance decision is reversed. Claimant's request to backdate the claim to December 25, 2016, is granted.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs