

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HOLLY J SCHILLING**  
Claimant

**APPEAL NO. 15A-UI-13125-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/04/15**  
**Claimant: Appellant (1)**

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

**STATEMENT OF THE CASE:**

Holly Schilling filed a timely appeal from the November 18, 2015, reference 01, decision that denied her request to backdate her claim to a date prior to November 15, 2015. After due notice was issued, a hearing was held on December 16, 2015. Ms. Schilling participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO and documentation of the claimant's telephone contact with the Agency on November 16, 2015.

**ISSUE:**

Whether there is good cause to backdate the claim to a date prior to November 15, 2015.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Holly Schilling is employed full time by Swiss Colony. As part of the employment, Ms. Schilling is subject to short-term layoffs. On Tuesday, November 10, 2015, the employer notified Ms. Schilling that she was being laid off and would be recalled to the employment when production increased. The employer did not indicate whether Ms. Schilling should or should not apply for unemployment insurance benefits.

Ms. Schilling had established an original claim for unemployment insurance benefits that was effective January 4, 2015. In connection with that application process, Workforce Development required that Ms. Schilling acknowledge the Unemployment Insurance Benefits Handbook and her obligation to review the contents of the handbook. The handbook included information regarding 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. Any employment during the break must be reported.

On Saturday, November 14, 2015, Ms. Schilling logged onto the Workforce Development claims reporting system for the purpose of making a weekly claim for benefits. Prior to that action, Ms. Schilling has most recently made a weekly claim for benefits in March. Ms. Schilling did not go through the steps of reactivating her claim for benefits on or before November 14, 2015, prior to attempting unsuccessfully to make a weekly claim for benefits on that date. Ms. Schilling receiving a message from the website that directed her to contact the Agency. On Monday, November 16, 2015, Ms. Schilling contacted Workforce Development by telephone and was then able to establish an additional claim for benefits that was deemed effective November 15, 2015.

Ms. Schilling has also claimed unemployment insurance benefits in connection with a prior claim year.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) 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.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The evidence in the record fails to establish good cause to backdate the effective date of the additional claim for benefits to a date prior to November 15, 2015. In connection with the original claim for benefits in January 2015, Ms. Schilling had been provided with appropriate information and instruction regarding the need to reactivate the claim for benefits after a lapse in the claim, prior to recommencing weekly claims. Ms. Schilling had claimed benefits during a preceding claim year and would have been provided with the same information and instructions as part of the prior claim year. The delay in reactivating the claim and the delay in establishing the additional claim for benefits was wholly attributable to Ms. Schilling not following the instructions that the Agency had previously provided to her. The delay was not attributable to the employer or to Workforce Development. Good cause does not exist to backdate the additional claim for benefits to a date prior to November 15, 2015.

**DECISION:**

The November 18, 2015, reference 01, decision is affirmed. Good cause does not exist to backdate the additional claim for benefits to a date prior to November 15, 2015. The claimant's request to backdate the claim is denied.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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