

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARLO M WESTERLUND
Claimant

APPEAL NO: 13A-UI-09246-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/28/13
Claimant: Appellant (2)**

871 IAC 24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 1, 2013, reference 02, that denied her request for retroactive benefits for the 12-week period ending July 20, 2013. A telephone hearing was held on September 4, 2013. The claimant participated.

ISSUE:

The issue is whether claimant had a reasonable ground for the delay in the filing of her claim.

FINDINGS OF FACT:

The administrative law judge having heard the claimant's testimony and having considered the evidence in the record, finds: The claimant filed an unemployment claim effective April 28, 2013 after an employment separation from Samaritan Society on April 26. The employer protested the claim but the department issued a favorable decision allowing claimant benefits on May 24. The employer appealed the decision.

Claimant made initial attempts to file unemployment claims but the department voice response system would not take them. When the employer appealed, she thought it better to wait for a decision rather than face a substantial benefit overpayment. When as Administrative Law Judge (ALJ) issued claimant a favorable decision on July 19, she pursued benefit claims for the past period that was denied. She began receiving a weekly benefit for the week ending July 27.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.35(1) provides:

(1) Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States postal service, on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the

envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted by any means other than the United States postal service on the date it is received by the division.

The administrative law judge concludes claimant established a reasonable cause for the delay in filing claims for the 12-weeks ending July 20, 2013, and her request for retroactive benefits for this period is approved.

It is understandable claimant waited to claim for benefits until after the ALJ affirmed the department favorable decision on July 19 that allowed benefits, as claimant did not want to have a large overpayment.

DECISION:

The department decision dated August 1, 2013, reference 02, is reversed. The claimant's request for retroactive benefits for the 12-week period ending July 20, 2013 is approved. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css