

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN M HARTNEY
Claimant

APPEAL NO: 13A-UI-13207-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/24/13
Claimant: Appellant (1)

871 IAC 24.2(4) – Canceling Claims

STATEMENT OF THE CASE:

Susan M. Hartney (claimant) appealed a representative's November 7, 2013 decision (reference 02) that denied her request to cancel her unemployment insurance claim which had been created effective March 24, 2013, upon a finding that the request had not been made within ten days after the monetary determination had been mailed to her. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on December 23, 2013. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Has the claimant filed a timely request to cancel her claim?

FINDINGS OF FACT:

The claimant established an unemployment insurance benefit year effective March 24, 2013. On March 28, 2013, the Agency mailed her a monetary determination establishing her weekly and maximum benefit amounts. On March 29, 2013, the Agency mailed her a corrected monetary determination which did not change the benefit amounts.

She did not seek or receive any unemployment insurance benefits after establishing her claim, but rather requested that her claim be backdated so that she could receive full or partial benefits during a period of layoff from February into March 2013. Her request was denied by a representative's decision issued on April 3, 2013 (reference 01). The claimant did not seek to cancel her claim after her request for backdating was denied as she did not think it mattered.

In late October or early November 2013 the claimant had an additional layoff from work. She sought to reestablish a claim for unemployment insurance benefits; the claimant's action resulted in the reactivation of her March 2013 with an additional claim effective November 3, 2013. She was advised that if her claim could be based on her more recent wages, her weekly benefit amount would be higher than the claim which was established in March 2013. She therefore made her request to cancel the March 2013 claim on November 5, 2013.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant has made a timely request to cancel her benefit year filed effective March 24, 2013. She has not.

871 IAC 24.2(4)c provides:

Cancellation of unemployment insurance claim.

c. Cancellation requests within the ten-day protest period. The claims section, upon review of the timely request and before payment is made, may cancel the claim for the following reasons:

- (1) The individual found employment or returned to regular employment within the protest period.
- (2) Cancellation would allow the individual to refile at the change of a calendar quarter to obtain an increase in the weekly or maximum benefit amount or the individual would receive more entitlement from another state.
- (3) The individual filed a claim in good faith under the assumption of being separated and no actual separation occurred.
- (4) The individual did not want to establish a benefit year because of eligibility for a low weekly or maximum benefit amount.

871 IAC 24.2(4)d provides:

Cancellation of unemployment insurance claim.

d. Other valid reasons for cancellation whether or not ten-day protest period has expired.

- (1) The individual has an unexpired unemployment insurance claim in another state and is eligible for a remaining balance of benefits.
- (2) The individual received erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department.
- (3) The individual has an unexpired railroad unemployment insurance claim with a remaining benefit balance which was filed prior to the unemployment insurance claim.
- (4) The individual exercises the option to cancel a combined wage claim within the ten days allowed by federal regulation.
- (5) The individual has previously filed a military claim in another state or territory. Wages erroneously assigned to Iowa must be deleted and an interstate claim must be filed.

(6) Federal wages have previously been assigned to another state or territory or are assignable to another state or territory under federal regulation. Federal wages erroneously assigned to Iowa must be deleted and the appropriate type of claim filed.

(7) The Iowa wages are erroneous and are deleted and the wages from one other state were used, the claim shall be canceled and the wages returned to the transferring state.

The request was based on the fact that the claimant would receive a higher weekly benefits amount with a November claim than with a claim filed in March. It was also based on the fact that the claimant's real interest in filing her claim for benefits in March were to seek back benefits into February, which was denied, and that she did not seek or receive benefits after March 24, 2013.

A request for cancellation of a claim under those circumstances must be made within ten days of the date that the monetary determination was mailed to the claimant's last-known address. See 871 IAC 24.2(4)c. The claimant did not file within the time limit set by law. Therefore the administrative law judge concludes that he lacks jurisdiction to grant the claimant's request.

DECISION:

The representative's November 7, 2013 decision (reference 02) is affirmed. The claimant's request to cancel her March 24, 2013, claim is denied.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs