

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHAD A PARTON
Claimant

APPEAL 16A-UI-11666-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/03/16
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the October 26, 2016, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to October 23, 2016. After due notice was issued, a hearing was scheduled to be held by telephone conference call on November 10, 2016. Claimant participated.

ISSUE:

May the claim be backdated prior to October 23, 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 desires to backdate the claim to October 23, 2016.

Claimant was placed on a temporarily layoff starting October 24, 2016. Claimant works Monday through Thursday. Claimant was told he would be on layoff starting October 24, 2016 and return to work on November 7, 2016. The employer gave paperwork on how to file a claim. Claimant had previously filed a claim for benefits for the weeks ending January 9, 2016 and August 6, 2016. Claimant had to reopen his claim to file a weekly claim for the week ending August 6, 2016.

Claimant attempted to use the phone system on Saturday, October 29, 2016, to file his weekly claim for the week ending October 29, 2016, but the Iowa Workforce Development (IWD) phone system was down. Claimant then tried to file his continued weekly claim online, but he could not get access to the IWD website. Once claimant did get through to the website, his password had changed. On October 31, 2016, claimant called IWD about his weekly claim for the week ending October 29, 2016.

Claimant was aware that he had to reopen his claim after a certain period of time, but he thought it was open for six months, not two weeks. On October 29, 2016, claimant thought his claim was still open, which is why he waited until Saturday to file his continued weekly claim.

Claimant believes he received an Unemployment Insurance Benefits Handbook when he filed his claim in January. Claimant did not read the entire Unemployment Insurance Benefits Handbook.

REASONING AND CONCLUSIONS OF LAW:

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

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

The IWD Unemployment Insurance Benefits Handbook indicates that any break in reporting of claims requires the individual to reopen their claim during the week they are requesting benefits. Claimant had successfully reopened his claim in August 2016 when he filed for one week of benefits after his break in filing from January 2016. Claimant's assumption that a claim remained open for six months and failure to inquire with IWD is not considered a good cause reason for having failed to reopen his claim prior to the Saturday during the first week of his layoff. Backdating is denied.

DECISION:

The October 26, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant's request to backdate the claim to October 23, 2016, is denied.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs