

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA D KING
Claimant

APPEAL NO: 12A-UI-14383-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/24/12
Claimant: Appellant (1)

871 IAC 24.2(4)d(1) – Cancellation of Claim

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 1, 2012 determination that denied her request to cancel her June 24, 2012 claim. The claimant participated in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge denies the claimant's request to cancel her June 24, 2012 claim.

ISSUE:

Should the claimant's request to cancel her June 24, 2012 claim be granted?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of June 24, 2012. Her maximum weekly benefit amount during this claim year is \$94.00. She filed a claim for the week ending June 30, 2012. She received \$94.00 in benefits for this week. A monetary determination dated June 28, 2012, informed the claimant her maximum weekly benefit amount was \$94.00.

After the claimant received benefits and realized she only received \$94.00 a week, she called her local Workforce office to find out why she only received this amount. The claimant told the representative she did not need benefits at that time and would save the benefits for when she needed them. The claimant indicated that she was not going to call in anymore weekly claims.

After the claimant was laid off from work and reopened her claim in early December, she learned her June 24, 2012 claim had not been canceled and she could only receive \$94.00 a week until late June 2013. The claimant then made a written request to cancel the claim she established the week of June 24, 2012, so she could establish a new benefit year and have a higher maximum weekly benefit amount.

REASONING AND CONCLUSIONS OF LAW:

The law provides to cancel an unemployment insurance claim, for:

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 refine 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)c.

If the claimant had made a **written** request to cancel her claim within the ten-day protest period on or before, July 9, 2012, the Department may have granted her request because of the low weekly benefit amount.

The regulations also state other valid reasons for cancellation whether or not the ten-day protest period has expired include a claimant receiving erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department. 871 IAC 24.2(4)d(2). The information the claimant received over the phone from a representative in early July 2012 was not erroneous or misleading. The claimant only told the representative she would not file any more weekly claims because she wanted to save her benefits for a time she did not have enough savings to cover her living expenses. The claimant may have wanted to cancel her June 24 claim after she received one week of benefits, but she did not verbalize this intent. If she had told the representative she wanted to cancel her claim, it would have been logical for her to then ask what she needed to do to pay back the one week of benefits she had already received. The claimant did not do this. More importantly, the claimant acknowledges she did not make a written request in early July 2012 to cancel her claim. To rely on a representative to cancel a claim without any written request when the representative does not know if the person on the phone is the claimant is not logical. To cancel a claim without a claimant's written statement creates many potential problems. It was not logical or practical for any claimant to assume a claim is cancelled without a written statement verifying a claimant wants a claim cancelled.

The claimant made a written request only after she realized her June 24, 2012 claim lasted a year and she could not receive more than a maximum of \$94.00 a week when she was laid off in late November or early December 2012. The claimant's early December 2012 written request to cancel her June 24, 2012 claim is denied.

DECISION:

The representative's December 1, 2012 determination is affirmed. The claimant's early December 2012 request to cancel her June 24, 2012 claim is denied.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll