

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**DAVID S MARBERRY**  
Claimant

**APPEAL 15A-UI-08889-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 06/21/15  
Claimant: Appellant (2)**

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871 IAC 24.2(1)a & h(1) & (2) – Backdating

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the August 4, 2015 (reference 01) decision that denied the request to backdate the claim for benefits prior to July 26, 2015. After due notice was issued, a hearing was held by telephone conference call on August 28, 2015. Claimant participated.

**ISSUE:**

The issue is whether claimant can backdate the claim prior to July 26, 2015.

**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 June 21, 2015 and desires to backdate the claim to June 14, 2015. Claimant delayed filing the claim because he was given incorrect information from his employer about the necessity to open his claim during the week. The paper given to all employees merely said call over the weekend. In the past the employer had always filed the initial claim for employees.

The claimant earned no wages from June 15 through June 19, 2015.

**REASONING AND CONCLUSIONS OF LAW:**

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

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.

Being given incorrect information by the employer is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is granted. The claimant's claim for benefits shall be backdated to June 14, 2015 and he shall be paid full unemployment insurance benefits for the week ending June 20, 2015.

**DECISION:**

The August 4, 2015 (reference 01) decision is reversed. The claimant's request to backdate the claim is granted.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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