

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WALTER STEPHENSON
Claimant

APPEAL NO. 08A-UI-11507-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/17/08 R: 03
Claimant: Appellant (4)

871 IAC 24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 3, 2008, reference 02, decision that denied the request for retroactive benefits without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. After due notice was issued, a telephone conference hearing was held on December 23, 2008. Claimant participated.

ISSUE:

The issue is whether claimant's request for retroactive benefits should be granted.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed a claim effective August 17, 2008 with an additional claim on November 16, 2008. He claimed benefits by telephone response for the six-week period ending September 27, 2008 and then attempted to file weekly claims online since he had no trouble filing his claim online and was informed after he entered his name and answered the set of questions that the records were complete and he did not have to supply any other information. The following week when he did not receive a benefit check, he thought he was doing something wrong and tried to fix past weeks' claims and was unaware he could not do that until he reopened the claim. He called the numbers on the back of the Facts About Unemployment booklet and after several attempts and delays he was told to report to the local office, which he did. He was in the hospital for the two weeks ending November 8 so did not attempt to file claims for those weeks. He has filed weekly claims and has received regular weekly benefits since the week ending November 15, 2008.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is granted except for the two-week period of hospitalization.

871 IAC 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.

Since the problem filing the claim online was related to internal agency issues and the Facts About Unemployment booklet was not clear that if a claim is not accepted, it must be reopened by the local office, and claimant made multiple, reasonable efforts to resolve the problem, retroactive benefits are granted for the four-week period ending October 25, 2008 and the one week ending November 15, 2008.

DECISION:

The December 3, 2008, reference 02, decision is modified in favor of the appellant. The claimant's request for retroactive benefits is granted in part.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css