

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY L PEACOCK**  
Claimant

**APPEAL NO. 08A-UI-05834-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/22/07 R: 01**  
**Claimant: Appellant (1)**

871 IAC 24.2(1)A & H (1) & (2) – Backdating

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the June 13, 2007, reference 03, decision that denied the request to backdate the claim for benefits prior to June 8, 2008. After due notice was issued, a hearing was held by telephone conference call on July 10, 2008. The claimant participated personally. Participating as a witness for the claimant was her husband, Ray Peacock.

**ISSUE:**

The issue is whether the claimant can backdate the claim prior to June 8, 2008.

**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 July 22, 2007. Ms. Peacock had previously filed a claim upon being laid off from MCI and had received 26 weeks of unemployment insurance benefits plus 13 weeks additional benefits as her separation was deemed to be due to a business closing. Having exhausted all the benefits available to her on her claim for MCI, Ms. Peacock subsequently accepted part-time employment with a community action organization and earned wages of at least \$250.00 during or after her previous benefit year in which she had received benefits. Upon reviewing Ms. Peacock's claim a representative had indicated to the claimant that it did not appear at that time that the claimant has a valid claim for additional benefits. Ms. Peacock was employed on a part-time basis and was employed at the same hours and wages with the community action organization. Based upon the information the representative apparently concluded that the claimant was ineligible for benefits because there had been no reduction in her working hours from the employment that she had accepted with that organization.

Subsequently, a different unidentified representative informed the claimant that she may have been eligible for benefits in the past and upon opening her claim for benefits effective July 22, 2007 the claimant was deemed eligible to receive reduced benefits.

## REASONING AND CONCLUSIONS OF LAW:

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

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.

After a review of the claimant's administrative file the administrative law judge concludes that the claimant did not receive inaccurate or incorrect information initially from a Workforce Development employee regarding her claim for additional benefits. Based upon the claimant's administrative file the administrative law judge concludes that the claimant had exhausted her initial claim filed based upon her separation from MCI as a business closing and subsequent employment was part-time and this claimant continues to work the same hours and receives the same wages for a community action organization that she is currently employed by. The administrative law judge thus concludes that the decision to deny the claimant's request to backdate her claim before June 8, 2008 was properly denied. There may be a question as to whether the claimant is properly receiving unemployment insurance benefits at this time based upon her employment at the same hours and wages as agreed upon at the time of hire from her current employer. This matter may be a subject for review by Iowa Workforce Development.

**DECISION:**

The representative's decision dated June 13, 2008, reference 03, is hereby affirmed. The claimant's request to backdate her claim prior to June 8, 2008 is denied.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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