

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ISAIAS MENDOZA
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 16A-UI-12992-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/17/16
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits

Iowa Code § 96.6(1) – Filing Claims

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 28, 2016, (reference 05) unemployment insurance decision that denied the request for retroactive benefits. After due notice was issued, a telephone conference hearing was scheduled for December 27, 2016. The claimant participated. Department exhibit D-1 was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant's request for retroactive benefits be granted?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant filed a claim effective January 17, 2016 in response to a temporary layoff from his employer, Duwa. The claimant was laid off for a period of six weeks. When the claimant opened his claim, he did so independently, and received a copy of the claimant handbook by mail. The claimant stated that he read the handbook. The claimant acknowledged he had prior issues when attempting to file his weekly claim so he contacted the Des Moines IWD office and requested manual assistance in filing his weekly claim. Each week, he would file on Friday. The advisor would ask him the same questions as the automated system about his wages, any pension, etc. He would receive verbal confirmation each week from the advisor. He was told on more than one occasion that the advisor would note the day and time they spoke for assurance.

The claimant was aware of an overpayment and expected the first weeks to be applied to it. However, the claimant then received a letter of overpayment. He believed the overpayment had been addressed through the application of his six weeks of benefits between January 17, 2016 until February 27, 2016. Upon learning of his outstanding overpayment, he contacted, Cary, a Workforce Advisor in Iowa City. When Cary looked at the claimant's records, he was told there had been an agency error as someone appeared to have deleted information contained within

his claim records. The claimant also met with Helga, who reportedly was Cary's manager, who also told the claimant that his records appeared to be incorrect due to agency error. The claimant is requesting retroactive benefits for the six week period of January 17, 2016 until February 27, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is granted.

Iowa Code § 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim or show good cause for the failure to do so to support a request for retroactive benefits. In this case, the claimant made a good faith effort each week to make his weekly continued claim. The credible evidence is the claimant was afraid of messing up his claim, so he would call and speak to a live representative each Friday at the Des Moines local office, who would take the information for his claim and file it for him. The claimant confirmed the questions asked by the representatives were consistent to those on the automated system for weekly claims. Agency representatives repeatedly assured the claimant his weekly continued claim was complete. The claimant made a timely attempt within the weeks of his unemployment to complete his continued claim and believed it had been successful.

It was not until weeks later that he learned his benefits had not been paid to him, or applied to an outstanding overpayment and followed up by visiting the Iowa City IWD office. There, he was informed by two IWD representatives that there appeared to be an agency error or someone had deleted his claims. The administrative law judge is persuaded the claimant took the requisite steps to make his weekly claim each week, within the week of unemployment. The claimant's unsuccessful attempt to file a continued claim and resolve the issue by contacting IWD are considered good reasons for the delay in filing weekly continued claims. The claimant's request for retroactive benefits for the six week period of January 17, 2016 until February 27, 2016 is granted.

DECISION:

The November 28, 2016, (reference 05) unemployment insurance decision is reversed. The claimant's request for retroactive benefits for the period of January 17, 2016 until February 27, 2016 is granted.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs