

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VICKY J PLAGMAN
Claimant

APPEAL 16A-UI-12490-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/03/16
Claimant: Appellant (2)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the November 16, 2016 (reference 02) unemployment insurance decision that denied claimant's request to backdate her claim prior to November 13, 2016. The claimant was properly notified of the hearing. A telephone hearing was held on December 8, 2016. The claimant, Vicky J. Plagman, participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits record.

ISSUE:

May the claim be backdated prior to November 13, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds as follows:

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 January 3, 2016, and an additional claim date effective November 13, 2016, and desires to backdate the claim to November 6, 2016. Claimant works four ten-hour days (Monday – Thursday) each week. Her last day physically worked on the job was Thursday, November 3, 2016. Claimant was told that she would be laid off work effective Monday, November 7, 2016.

On October 28, 2016 claimant had visited with a representative at her local Iowa Workforce Development office in anticipation of her layoff. She completed paperwork and was told that the employee registered her and filed her additional claim. When she went online to file her weekly claim for benefits on November 12, 2016 the system stated that she had a break in filing and did not allow her to file her weekly claim. Claimant visited with the local office the following Monday, November 14, 2016 and it was necessary for her to register her additional claim again because she had not been properly registered on October 28, 2016.

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 Code section 96.6(1) provides:

Filing — determination — appeal.

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

Iowa Admin. Code r. 871-24.2(1)h(1) and (2) 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.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 13 and 14:

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

REACTIVATING A CLAIM

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week he/she wants to start collecting benefits again. Any employment during the break must be reported.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 19 and 20:

Filing Weekly Claims

How to File

After you file your initial claim, file weekly claims online at iowaworkforcedevelopment.gov for every week you are unemployed or your hours are reduced. You must file a weekly claim for any week that you want payment even if your eligibility is being decided or you have an appeal pending.

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment

When to File

The current week is the week that just ended on Saturday. Individuals are strongly encouraged to file their weekly claims between the hours of 9:00 am Saturday through 11:30 pm Sunday. Failing to do so can potentially delay benefits.

IMPORTANT: You will receive confirmation that the claim has been processed successfully. If you don't receive confirmation, the process must be repeated until the claim has been successfully submitted.

Note that the instruction to file weekly continued claims appears six pages later in the Handbook than the initial and reactivation claim filing instructions, *after* information about the fact-finding interview and appeal process. This chronology is reasonably confusing. Further, there is no indication that a new, additional or reopened claim must be filed by the close of business on Friday of the week the unemployment begins.

The Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Further, there is no indication that a new, additional or reopened claim must be filed by the close of business on Friday of the week the unemployment begins. Claimant believed that she had already filed her additional claim, as informed by the Iowa Workforce Development representative. Thus, the delay in filing within the next business week is considered a good cause reason for having failed to file a claim during the first week of unemployment. Misinformation about filing from an Iowa Workforce Development representative is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The November 16, 2016 (reference 02) unemployment insurance decision is reversed. The claimant's request to backdate the claim to November 6, 2016, is granted as are retroactive benefits for the same time period.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

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