

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LARRY A DAY**  
Claimant

**APPEAL NO. 09A-UI-00364-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/02/08 R: 05  
Claimant: Appellant (1)**

871 IAC 24.9(1)b – Ten-Day Limitation on Request to Alter Monetary Determination  
871 IAC 24.2(4)c – Ten-Day Limitation to Cancel Claim

**STATEMENT OF THE CASE:**

Larry Day filed an appeal from a representative's decision dated January 5, 2009, reference 01, which denied the claimant's request to change the number of dependents on his monetarily valid claim effective November 2, 2008, finding that the claimant failed to make the request within ten days. After due notice was issued, a telephone conference hearing was scheduled for and held on January 26, 2009. Mr. Day participated personally. Official notice was taken of the claimant's administrative file.

**ISSUE:**

At issue is whether the claimant was properly denied his request to change the number of dependents on a monetarily valid claim because the request was not made within ten days.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: Mr. Day opened a claim for unemployment insurance benefits with an effective date of November 2, 2008. Although Mr. Day personally visited an area claims center, he was required to open his claim for benefits online via the use of a computer terminal. Mr. Day does not recall making an entry for claiming dependents on his unemployment insurance claim. When subsequently provided a notice of the benefit amount, Mr. Day did not dispute the notice, as he believed the weekly benefit amount was correct based upon withholding taxes. He did not dispute the monetary determination. Later, on or about December 9, 2008, when visiting the claims center for another purpose, Mr. Day again reviewed his claim and at that time determined that he had not listed any dependents when he made his claim for benefits. The matter was reviewed and it was determined that because Mr. Day had not attempted to cancel his claim within the ten-day protest period allowed by law and did not request reconsideration of the monetary decision in this case within ten days of the date of the mailing of the monetary record to him, his request to change the number of dependents was denied.

## **REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes that Mr. Day has timely requested to cancel his claim or to have the monetary determination reconsidered within the ten-day statutory time limit. It does not.

The evidence in the record establishes that Mr. Day personally opened his claim for unemployment insurance benefits by entering pertinent data in Iowa Workforce Development's computerized system effective November 2, 2008. A review of the computer screens that the claimant was required to complete shows that Mr. Day was required to either affirmatively or negatively answer the question as to whether he had dependents. If the claimant answered in the negative, that information was imported into the computer system and subsequently a monetary determination was issued based upon the claimant's decision and entry in the computer field. In the alternative, if the claimant answered yes to the question regarding dependents, a completely new screen would be shown that required the claimant to answer numerous questions regarding the dependents and their status. At the completion of either process, a claimant for unemployment insurance benefits would be required to certify that the information provided was true and accurate to the best of the claimant's knowledge. The evidence further establishes that, subsequently, the claimant was sent a copy of a monetary determination specifically listing the amount of his weekly benefit amount, and the evidence is clear that Mr. Day did not protest that determination within the ten-day statutory time period allowed by law.

Subsequently, on December 9, 2008, the claimant discovered that he had made a mistake and wished to rectify it. The claimant was not allowed to do, because he had not canceled his claim for benefits or filed a written request for a change and reconsideration of his monetary record within ten days as required by law.

Under the provisions of 871 IAC 24.9(1), the department mails an individual claiming benefits a Form 65-5318 Monetary Record, which is a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to his or her claim for benefits. Under Section b of that provision, the monetary record constitutes a final decision unless newly discovered facts that affect the validity of the original determination are obtained or a written request is filed by the individual within ten days of the date of mailing of the monetary record. The request must specify the grounds for the objection to the monetary record. The evidence is undisputed in this case that Mr. Day received the copy of his monetary record and that he did not file a dispute or a request for reconsideration in the time frame allowed by law.

Under provisions of 871 IAC 24.2(4)c, an individual who requests to cancel his or her claim for benefits must do so within a ten-day period. The evidence in this case establishes that Mr. Day did not request or attempt to cancel his claim within the ten-day time period allowed by statute.

Based upon the above-cited statutes requiring the cancellation of the claim or a protest of the monetary determination to be made within a ten-day time period, and because of the decision by the claimant when filing his initial claim for benefits not to indicate any dependents, the administrative law judge must conclude that the decision to deny the claimant's request to change the number of dependents on his claim was not timely made and that the claimant has not established good cause for determining that the statutory time limit is not applicable in this case. The claimant chose to list no dependents and did not file a timely protest after being apprised of such in writing in the form of a monetary record with his weekly benefit amount, total benefits, and other data pertinent to his claim for benefits.

**DECISION:**

The representative's decision dated January 5, 2009, reference 01, is affirmed. The claimant's request to change the number of dependents on his claim is not timely and is denied.

---

Terence P. Nice  
Administrative Law Judge

---

Decision Dated and Mailed

kjw/kjw