

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**JENNIFER S THOMPSON**  
Claimant

**WELLS FARGO BANK NA**  
Employer

**APPEAL 15A-UI-06644-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/15  
Claimant: Appellant (2R)**

---

Section 96.23 – Substitution of Wages Due to Receipt of Workers' Compensation

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 5, 2015, (reference 01) unemployment insurance decision that found the claimant ineligible for benefits as the claimant did not have suitable worker's compensation or indemnity payments that could be used to substitute wages for her base period. The parties were properly notified about the hearing. A telephone hearing was held on July 16, 2015. The claimant participated. Although properly notified for the hearing, the employer elected not to participate. Claimant Exhibit One was admitted.

**ISSUE:**

Is the claimant entitled to substitute calendar quarters prior to the regular base period due to receiving workers' compensation benefits?

**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 original claim date of April 19, 2015. The claimant's base period for her claim is January 1, 2014 to December 31, 2014. During three quarters of the claimant's base period, she received indemnity payments from Liberty Mutual:

2014, Quarter 1	\$6703.29
2014, Quarter 2	\$6703.29
2014, Quarter 3	\$1787.54

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether the claimant is entitled to substitute calendar quarters prior to the regular base period due to receiving workers' compensation or indemnity benefits.

Iowa Code Section 96.23 provides:

The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 3, if the individual received workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:

1. The individual did not receive wages from insured work for three calendar quarters.
2. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4.

The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately proceeding the base period, in which the individual did not receive such workers' compensation benefits or indemnity insurance benefits.

The claimant did not receive wages from insured work for three calendar quarters. The claimant does qualify to have wage credits from before her regular base period used to determine her qualification for unemployment insurance benefits since she did receive indemnity payments in three or more calendar quarters of her regular base period.

**REMAND:** The wage issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and recalculation of benefits.

**REMAND:** The substituted wages issue delineated in the findings of fact is remanded to the Tax department for an initial investigation and determination.

**DECISION:**

The unemployment insurance decision dated June 5, 2015, reference 01, is reversed. The claimant is entitled to substitute calendar quarters prior to the regular base period.

---

Jennifer L. Coe  
Administrative Law Judge

---

Decision Dated and Mailed

jlc/mak