

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

FRANCISCA T RODRIGUEZ-HARVEY
810 SW PAYTON AVE APT 24
DES MOINES IA 50315

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-08117-AT
OC: 05-30-04 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-4 – Adding a Dependent

STATEMENT OF THE CASE:

Francisca T. Rodriguez-Harvey filed a timely appeal from an unemployment insurance decision dated July 22, 2004, reference 05, which denied a request to add a dependent. After due notice was issued, a telephone hearing was held on August 12, 2004 with Ms. Rodriguez-Harvey participating on her own behalf.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Francisca T. Rodriguez-Harvey filed a claim for

unemployment insurance benefits effective May 30, 2004. A monetary determination was mailed to her on June 2, 2004. She gave birth to a son on June 15, 2004. At the time that she filed her initial claim for unemployment insurance benefits, she listed the child and the anticipated date of birth. The unborn child was not considered when benefit amounts were computed. Ms. Rodriguez-Harvey will be claiming the child as a dependent for unemployment insurance purposes for 2004. The child's father is not currently claiming him as a dependent for unemployment insurance purposes.

REASONING AND CONCLUSIONS OF LAW:

The question is whether a child born more than ten days after the mailing of the monetary determination can be added as a dependent for an open benefit year. The administrative law judge concludes that such a child cannot.

A monetary determination becomes final ten days after issuance in the absence of newly discovered facts and a written request for consideration within ten days after the mailing of the document to a claimant. See 871 IAC 24.9(1)(b). The evidence establishes that Ms. Rodriguez-Harvey put the Agency on notice of the impending birth when she filed her original claim. Under these circumstances, the administrative law judge concludes that she gave the Agency appropriate notice. Still, the evidence establishes that the child was born more than ten days after the issuance of the monetary determination. Under these circumstances, the rule does not allow the administrative law judge to add the child as a dependent for Ms. Rodriguez-Harvey's current benefit year.

DECISION:

The unemployment insurance decision dated July 22, 2004, reference 05, is affirmed. The claimant's request to add her son as a dependent to her present benefit year is denied.

tjc/kjf