

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEEJAY OBLANDER
Claimant

APPEAL NO. 07A-UI-11201-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/13/07 R: 05
Claimant: Appellant (2)**

Iowa Code § 96.3(4) – Determination of Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 29, 2007, reference 01, decision that denied the request to add dependents to his claim for benefits. After due notice was issued, a telephone conference hearing was held on December 17, 2007. Claimant participated.

ISSUE:

The issue is whether claimant may add dependents to his claim.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed a claim for benefits with an effective date of May 13, 2007 because of a temporary one week layoff for the week ending May 19, 2007. When he filed the application he indicated to the claims taker in the Decorah local office that he could not claim his wife as a dependent since she earns more than \$200.00 per week but that he does have three minor children: Malyssa, Raymond and Ashley. Unbeknownst to claimant, the claims taker did not record the three dependents. When he received the monetary record dated May 13, 2007, he called the local office and spoke to a representative who agreed to make the change and have the difference in back benefits issued. Within a week claimant was back to work and did not file a claim for additional benefits until the week beginning November 18, 2007 when he was laid off for another week ending November 24, 2007. When he again inquired about the difference in benefits he was told the promised change could not be made until the next claim year.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to add a dependent to the claim is granted.

Iowa Code § 96.3-4 provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Since the local office promised to correct the claims taker's error, include the three dependents, and readjust the benefits but did not do so, claimant's reliance on the local office to his detriment renders his appeal from the monetary record timely. Claimant is allowed to add three dependents to his claim and his benefits shall be adjusted accordingly.

DECISION:

The November 29, 2007, reference 01, decision is reversed. The claimant's request to add three dependents to the claim is granted. Claimant is entitled to claim three (3) dependents on his claim effective May 13, 2007.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs