

**871—24.7 (96) Workers' compensation or indemnity insurance exclusion and substitution.**

**24.7(1)** An individual who has received workers' compensation under Iowa Code chapter 85 during a healing period or temporary total disability benefits or indemnity insurance benefits for an extended period of time and has insufficient wage credits in the base period may qualify for unemployment insurance benefits. Under specific circumstances as described below, the department shall exclude certain quarters in the base period and substitute three or more consecutive calendar quarters immediately preceding the base period which were prior to the workers' compensation or indemnity insurance benefits.

**24.7(2)** An individual may receive workers' compensation during a healing period or temporary total disability benefits or indemnity insurance benefits until the individual returns to work or is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury.

**24.7(3)** The department shall make an initial determination of eligibility for unemployment insurance benefits. If the individual has no wage records or lacks qualifying wage requirements, the department shall substitute three or more calendar quarters of the base period with those three or more consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation benefits or indemnity insurance benefits. The qualifying criteria for substituting quarters in the base period are that the individual:

- a.* Must have received workers' compensation benefits under Iowa Code chapter 85 or indemnity insurance benefits for which an employer is responsible during the excluded quarters, and
- b.* Did not work in and receive wages from insured work for:
  - (1) Three or more calendar quarters in the base period, or
  - (2) Two calendar quarters and lacked qualifying wages from insured work during another quarter of the base period.

**24.7(4)** Subject to the provisions of subrule 24.7(3), the department shall use the following criteria for allowances and disqualifications.

*a. Allowances.* When the allowance criteria are met, the department shall always exclude and substitute at least three quarters of the base period if the individual received workers' compensation or indemnity insurance benefits in:

- (1) Four base period quarters with no earnings in at least two of the quarters and the individual lacks qualifying earnings, the department will exclude and substitute all four quarters of the base period.
- (2) Three no earnings base period quarters, with or without earnings in the fourth quarter, the fourth quarter remains in the base period and the department will exclude and substitute only three quarters in the base period.

*b. Disqualifications.* The request for retroactive substitution of base period quarters shall be denied if the individual received workers' compensation or indemnity insurance benefits in:

- (1) At least three base period quarters but the individual is currently monetarily eligible with an established weekly and maximum benefit amount.
- (2) At least three base period quarters and the individual has base period wages in three or more of the base period quarters, but the claim lacks qualifying earnings.
- (3) Less than three base period quarters.

**24.7(5)** The individual shall be requested to complete the Affidavit and Questionnaire, Form 60-0286, which requests the following information:

- a.* Individual's name and social security number.
- b.* Name of employer responsible for the workers' compensation benefits or the indemnity insurance benefits.

*c.* Names of employers and periods worked for the period preceding the workers' compensation or the indemnity insurance pay period.

*d.* Name of the workers' compensation or indemnity insurance carrier or, if self-insured, the name of the employer.

*e.* Specify whether the wages determined to be in the individual's base period were or were not received for working in insured work during the base period.

**24.7(6)** The department will mail the redetermined initial claim to the individual. When the claim for benefits is determined to be monetarily eligible for payment, the employer responsible for the workers' compensation or the indemnity insurance benefits shall be notified of the redetermination and shall be responsible for the charges on the redetermined claim which are solely due to wage credits considered to be in the individual's base period due to the exclusion and substitution of calendar quarters. The employer responsible for the workers' compensation or indemnity insurance benefits shall have the right to protest as provided in rule 871—24.8(96).