

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOROTHY M CONE
Claimant

APPEAL NO. 07A-UI-07363-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 07/15/07 R: 02
Claimant: Appellant (1)**

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

STATEMENT OF THE CASE:

Dorothy Cone filed a timely appeal from the July 25, 2007, reference 01, decision that denied his request to backdate his claim. After due notice was issued, a hearing was held on August 17, 2007. Ms. Cone participated. The administrative law judge received Department Exhibit D-1 into evidence.

ISSUE:

Whether the claimant has presented sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Dorothy Cone established a claim for benefits that was effective July 15, 2007. Ms. Cone had been laid off effective May 29, 2007. On May 30, Ms. Cone attempted to establish a claim for benefits by means of Workforce Development's automated telephone system. On the following Saturday, Ms. Cone attempted to make a weekly report to the Agency by means of the automated telephonic reporting system, but found she could not log into the system. On Monday, June 4, Ms. Cone again attempted to establish a claim for benefits by means of the Agency's automated telephone system. On the following Saturday, Ms. Cone attempted to make a weekly report to the Agency by means of the automated telephonic reporting system, but found she could not log into the system. Over the course of several weeks, Ms. Cone continued this pattern of unsuccessful attempts to establish her claim by means of the automated telephone system and unsuccessful attempts to log into the automated telephone reporting system. Ms. Cone did not alter her attempt to establish a claim until July 20, when she enlisted her daughter to drive her to the Des Moines Workforce Development Center. Ms. Cone does not drive. Ms. Cone does not utilize the Des Moines Transit System. Ms. Cone delayed enlisting the assistance of her daughter because she did not want to inconvenience her daughter. At all relevant times, Ms. Cone had access to a telephone and a Des Moines phone book, but did not think to contact the Des Moines Workforce Development Center to request assistance in establishing her claim.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence indicates sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

871 IAC 24.2(1)h(1), (2) and (3) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during

which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The evidence indicates that the delay in establishing the claim for benefits was attributable to Ms. Cone. If Ms. Cone needed assistance in establishing her claim for benefits, assistance was readily available to Ms. Cone. Ms. Cone failed to take reasonable steps to request assistance in establishing her claim for benefits by failing to contact her local Workforce Development Center by telephone or in person until July 20, 2007. The administrative law judge concludes good cause does not exist to backdate the claim and that Ms. Cone has not presented sufficient grounds to justify or excuse delay in filing for benefits.

DECISION:

The Agency representative's July 25, 2007, reference 01, decision is affirmed. The claimant has not presented sufficient grounds to justify or excuse the delay in filing for benefits. Good cause does not exist to backdate the claim for benefits. The claimant's request to backdate the claim is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css