

**IOWA WORKFORCE DEVELOPMENT DEPARTMENT
UNEMPLOYMENT INSURANCE APPEALS SECTION
1000 EAST GRAND AVENUE
DES MOINES IA 50319**

**Appeal Number: 06A-UI-03423-AT
OC 02-26-06 R 03
Claimant: Respondent**

**GREGORY P GEIGER
PO BOX 163
BLAIRSTOWN IA 52209-0163**

**WALGREEN COMPANY
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**CAITLIN SLESSOR
IOWA LEGAL AID
210 – 2nd ST SE #302
CEDAR RAPIDS IA 52401-1407**

**WALGREEN COMPANY
ATTN – MIC MYERS
3325 – 16th AVE SW
CEDAR RAPIDS IA 52404**

871 IAC 26.9 – Whether Sanctions Should Be Imposed for Failing to Answer Interrogatories

STATEMENT OF THE CASE:

Employer filed a timely appeal from an unemployment insurance decision dated March 10, 2006, reference 01, which allowed benefits to the claimant. Prior to a final hearing being scheduled in this matter, the claimant filed interrogatories and a request for production of documents. The opposing party has not responded to the discovery requests. After due notice was issued, a telephone hearing was held on August 9, 2006, to determine whether sanctions should be imposed on the employer for failing to make discovery.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The employer has answered the interrogatories or produced the documents and is in default. To cure the

default, the employer must answer the interrogatories and provide the documents requested to the claimant's representative not later than 4:30 p.m. on Friday, August 18, 2006.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether sanctions should be imposed for failing to answer interrogatories.

871 IAC 26.9(8) provides:

(8) Upon application by any party or upon the presiding officer's own motion, the presiding officer may impose sanctions for failure to make discovery; however, sanctions shall not be imposed without prior specific notice from the presiding officer of the contemplated sanction, opportunity to be heard, and, if necessary, further opportunity to cure its failure. The sanctions may include the following:

- a. The granting of a postponement to a party demonstrably prejudiced by the failure;
- b. The exclusion of testimony of witnesses not identified in response to a specific request for such information;
- c. The exclusion from the record of those exhibits not identified in response to a specific request for such information;
- d. The exclusion of the party from participation in the contested case proceeding;
- e. The dismissal of the party's appeal.

The administrative law judge concludes from the evidence in this record that the employer is in default for failing to make discovery. As noted above, the employer is given one last opportunity to cure the default. If the default is not cured within the specified time, the employer's appeal shall be dismissed.

ORDER:

The employer is found to be in default for failing to make discovery. The employer may cure its default by submitting its answers and documents specified above to the opposing party not later than 4:30 p.m. on August 18, 2006. If the employer has not done so, the administrative law judge shall dismiss the employer's appeal.

Dan Anderson
Administrative Law Judge

Dated and mailed:

DA:kjw

Copies to all parties of record.