

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARLEN C ORDONEZ**  
Claimant

**APPEAL NO. 07A-UI-07359-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT**

**OC: 08/06/06 R: 02  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Marlen Ordonez filed a timely appeal from the July 27, 2007, reference 02, decision that denied her request to backdate her claim. After due notice was issued, a hearing was scheduled for Thursday, August 16, 2007, at 10:00 a.m. The administrative law judge was unavailable for a hearing at that time and the matter was rescheduled by agreement to Friday, August 17, 2007, at 10:00 a.m. The claimant advised the Appeals Section that she would be available for a hearing at the rescheduled time, but at the rescheduled time of the hearing was not available at the number she had provided. The administrative law judge took official notice of the Agency's administrative file and received the claimant's appeal letter into evidence as Exhibit D-1.

The claimant contacted the Appeals Section at 11:11 a.m. on August 17, 2007 and a hearing took place at that time.

**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: Marlen Ordonez established a claim for benefits that was effective August 6, 2006. Ms. Ordonez established an "additional claim" that was effective July 22, 2007. Ms. Ordonez has considerable experience in filing unemployment insurance claims and the Agency's records indicate that Ms. Ordonez established claims effective in 1999, 2001, 2002, 2003, 2004, 2005 and 2006. Ms. Ordonez delayed establishing her most recent "additional claim" for benefits because she was visiting college campuses in preparation for a return to school.

## 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 Ms. Ordonez was aware of the process for establishing a claim for unemployment insurance benefits, but delaying establishing the recent "additional claim" for personal reasons. The administrative law judge concludes good cause does not exist to backdate the claim and that Ms. Ordonez has not presented sufficient grounds to justify or excuse delay in filing for benefits.

**DECISION:**

The Agency representative's July 27, 2007, reference 02, 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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