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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 1@ Unemployment Compensation

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Chapter 5@ UNEMPLOYMENT COMPENSATION BENEFITS

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Article 3@ FILING, DETERMINATION, AND PAYMENT OF UNEMPLOYMENT COMPENSATION BENEFIT CLAIMS

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## Unemployment Claims with Good Cause Extension of Time

### (a)

The department shall, at the request of the claimant, extend the period prescribed for the filing of a new, additional, continued, or reopened claim, or the period within which to register for work, or the 28-day period prescribed for the filing of a first or subsequent partial claim under Section 1326-8 of these regulations, if the department finds that the failure of the individual to file any such claim or to register for work within the prescribed time was due to good cause, including, but not limited to, any of the following: (1) Failure on the part of the employer with respect to partial unemployment benefits to comply with any of the provisions of Sections 1326-7 and 1326-9 of these regulations. (2) His or her employer warned, instructed or coerced him or her to prevent the prompt filing of such claim, or his or her registration for work. (3) He or she reasonably relied on misleading, incomplete, or erroneous advice given to him or her by personnel of the department, or relied on the failure of the department to perform an affirmative duty to provide advice reasonably necessary for the protection of his or her rights and the understanding of his or her duties relating to the claim or registration for work. Reliance is reasonable if all of the following conditions exist: (A) He or she acted reasonably in informing the department of pertinent facts and of the need for specific advice as to his or her rights and duties. (B) The

department's advice was intended by the department to be the basis of his or her conduct or he or she reasonably believed the advice was so intended, or he or she reasonably relied upon the department which failed to provide advice reasonably necessary to the protection of his or her rights or the understanding of his or her duties. (C) He or she was not aware that the department's advice was misleading, incomplete or erroneous, or through no fault or inexcusable neglect on his or her part was not aware of the true information concerning his or her rights or duties.

(4) Failure by the department to discharge its responsibilities promptly in connection with such partial or other unemployment. (5) Compelling reasons, or circumstances which would prevent a reasonable person under the circumstances presented from filing the claim or registering for work. Depending on the circumstances, this can include illness or injury of the claimant or any member of the claimant's immediate family, a job interview, working, lack of transportation or the unavailability of mail service for a claimant in a remote area, a natural catastrophe such as an earthquake or a fire or flood, a claimant who is awaiting reduced earnings statements from the employer, or compelling personal affairs or problems that could not reasonably be postponed such as an appearance in court or an administrative hearing or proceeding, substantial business matters, attending a funeral, or relocation to another residence or area. EXAMPLE 1.

Claimant A is scheduled by the department to report biweekly on Thursday. On A's first regular report day, he is working and does not report. A did not work on any other day, and returns to the office on his second regular report day. A's continued claims may be accepted if he is otherwise eligible for the weeks preceding his first, as well as the weeks preceding his second, report day. A's working was a compelling reason for not reporting to the department, and reporting on his second regular report day was acceptable. EXAMPLE 2. B was laid off from his job

on Friday. The following Sunday B's wife was seriously injured and hospitalized. B spent all week attending to his family's needs and personal affairs due to the wife's injury, and seeking day care for his minor child. The following week B sought to file a new claim for unemployment insurance backdated to Sunday after his layoff. B's claim can be backdated since B's failure to file the preceding week was due to compelling reasons and excusable neglect. (6) The department assigned a claim filed to the wrong program. (7) Mistake, inadvertence, surprise, or excusable neglect. However, "good cause" does not include negligence, carelessness, or procrastination, in the absence of circumstances excusing these causes for delay.

EXAMPLE 3. Claimant C has previously filed unemployment insurance claims. The department has advised C of the requirements for filing continued claims by mail. Claimant C for four weeks puts off or forgets to file any continued claims. After several weeks, C seeks to file his continued claims for all past weeks. Claimant C's continued claims cannot be accepted for any past weeks, since the failure to file is due to negligence or inexcusable neglect. EXAMPLE 4. Claimant D drew unemployment benefits and then got a job. Claimant D was laid off from that job after a week but believed he would quickly get another job. Thus, D delayed filing any additional claim for unemployment benefits. After 3 weeks of unemployment, D sought to have his additional claim backdated to the week after his layoff. D's additional claim cannot be backdated, since D's delay was due to his own decision to delay filing for benefits because he expected to be reemployed. Such circumstances do not establish a basis for good cause.

**(1)**

Failure on the part of the employer with respect to partial unemployment benefits to comply with any of the provisions of Sections 1326-7 and 1326-9 of these regulations.

**(2)**

His or her employer warned, instructed or coerced him or her to prevent the prompt filing of such claim, or his or her registration for work.

**(3)**

He or she reasonably relied on misleading, incomplete, or erroneous advice given to him or her by personnel of the department, or relied on the failure of the department to perform an affirmative duty to provide advice reasonably necessary for the protection of his or her rights and the understanding of his or her duties relating to the claim or registration for work. Reliance is reasonable if all of the following conditions exist: (A) He or she acted reasonably in informing the department of pertinent facts and of the need for specific advice as to his or her rights and duties. (B) The department's advice was intended by the department to be the basis of his or her conduct or he or she reasonably believed the advice was so intended, or he or she reasonably relied upon the department which failed to provide advice reasonably necessary to the protection of his or her rights or the understanding of his or her duties. (C) He or she was not aware that the department's advice was misleading, incomplete or erroneous, or through no fault or inexcusable neglect on his or her part was not aware of the true information concerning his or her rights or duties.

**(A)**

He or she acted reasonably in informing the department of pertinent facts and of the need for specific advice as to his or her rights and duties.

**(B)**

The department's advice was intended by the department to be the basis of his or her conduct or he or she reasonably believed the advice was so intended, or he or she reasonably relied upon the department which failed to provide advice reasonably necessary to the protection of his or her rights or the understanding of his or her duties.

**(C)**

He or she was not aware that the department's advice was misleading, incomplete or erroneous, or through no fault or inexcusable neglect on his or her part was not aware of the true information concerning his or her rights or duties.

**(4)**

Failure by the department to discharge its responsibilities promptly in connection with such partial or other unemployment.

**(5)**

Compelling reasons, or circumstances which would prevent a reasonable person under the circumstances presented from filing the claim or registering for work. Depending on the circumstances, this can include illness or injury of the claimant or any member of the claimant's immediate family, a job interview, working, lack of transportation or the unavailability of mail service for a claimant in a remote area, a natural catastrophe such as an earthquake or a fire or flood, a claimant who is awaiting reduced earnings statements from the employer, or compelling personal affairs or problems that could not reasonably be postponed such as an appearance in court or an administrative hearing or proceeding, substantial business matters, attending a funeral, or relocation to another residence or area. EXAMPLE 1. Claimant A is scheduled by the department to report biweekly on Thursday. On A's first regular report day, he is working and does not report. A did not work on any other day, and returns to the office on his second regular report day. A's continued claims may be accepted if he is otherwise eligible for the weeks preceding his first, as well as the weeks preceding his second, report day. A's working was a compelling reason for not reporting to the department, and reporting on his second regular report day was acceptable. EXAMPLE 2. B was laid off from his job on Friday. The following Sunday B's wife was seriously injured and hospitalized. B spent all week attending to his family's needs and personal affairs due to the wife's injury, and

seeking day care for his minor child. The following week B sought to file a new claim for unemployment insurance backdated to Sunday after his layoff. B's claim can be backdated since B's failure to file the preceding week was due to compelling reasons and excusable neglect.

**(6)**

The department assigned a claim filed to the wrong program.

**(7)**

Mistake, inadvertence, surprise, or excusable neglect. However, "good cause" does not include negligence, carelessness, or procrastination, in the absence of circumstances excusing these causes for delay. EXAMPLE 3. Claimant C has previously filed unemployment insurance claims. The department has advised C of the requirements for filing continued claims by mail. Claimant C for four weeks puts off or forgets to file any continued claims. After several weeks, C seeks to file his continued claims for all past weeks. Claimant C's continued claims cannot be accepted for any past weeks, since the failure to file is due to negligence or inexcusable neglect. EXAMPLE 4. Claimant D drew unemployment benefits and then got a job. Claimant D was laid off from that job after a week but believed he would quickly get another job. Thus, D delayed filing any additional claim for unemployment benefits. After 3 weeks of unemployment, D sought to have his additional claim backdated to the week after his layoff. D's additional claim cannot be backdated, since D's delay was due to his own decision to delay filing for benefits because he expected to be reemployed. Such circumstances do not establish a basis for good cause.

**(b)**

The individual shall file such claim or register for work with reasonable diligence after the termination of good cause, usually not later than during the week following the week in which such termination occurs.

**(c)**

A first or subsequent partial claim or other claim for benefits or registration for work shall not be valid if it is filed more than 13 weeks after the end of the benefit year (actual or potential) during which the week of partial unemployment or week of unemployment occurred.