

OPINION 104

Therefore it is my opinion that your board may issue an order authorizing the County Auditor to correct the tax duplicate in any manner to accountably show the tax due upon the particular property involved.

There is no mention in the statute of any hearing being required before the State Board of Tax Commissioners and said Board is specifically excepted from Chapter 365, Acts of 1947. If the board has sufficient information before it, in my opinion, it could properly proceed with the correction indicated.

Therefore in consideration of the above, the answer to your first question is yes and the answer to your second question is no.

OFFICIAL OPINION NO. 104

November 12, 1953.

Mr. William C. Stalnaker, Director,
Indiana Employment Security Division,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Sir:

This is in reply to your letter of September 11, 1953 which is as follows:

“Due to budget reduction the number of personnel in the offices of the Indiana Employment Security Division has been cut drastically. This has made necessary the simplification of unemployment compensation claims payment procedures in every way possible in conformity with the Indiana Employment Security Act and still carrying out the full purposes of the law.

“The Federal Bureau has suggested that this agency adopt bi-weekly reporting for claimants but this is not approved by this Division as it would mean a delay on all claim payments. We do propose to postpone the reporting to certify for the Waiting Period week until the third week when the individual claimant has established a compensable week. The new claimant will

register for work and file claim during the first week. He will next report during the third week and at this time his eligibility for the first or Waiting Period week as well as his benefit rights for the first compensable week will be determined. It is estimated that almost 30% of the individuals filing new claims do not return to claim a compensable week. In addition the time for servicing one visit on all continued claims will be saved. This will be particularly helpful on mass lay-offs and will not delay the payment of benefits.

“We believe the Act gives the Director and Board the full authority to postpone the Waiting Period certification. Before final adoption of this change in reporting we will appreciate an official opinion from your office as to the validity of this proposed change.”

Section 1404, page 673, Chapter 208, Acts 1947, as found in Burns' Indiana Statutes Annotated (1951 Repl.), Section 52-1538c regarding waiting period requirements, reads as follows:

“Sec. 1404. As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one week in which he has been totally, partially or part-totally unemployed and with respect to which he has received no benefits, but during which he was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provision of this Act. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. No individual in a benefit period may file for waiting period or benefit period rights with respect to any subsequent period.”

Pursuant to the above cited Section the Board now has in force and effect Regulation 804 prescribing the procedure to be followed regarding waiting period and said Regulation reads as follows:

“Regulation 804. Waiting period is a week in the individual's benefit period and is the required period of

time during which an individual must have been totally, part-totally, or partially unemployed before he can obtain benefits, and shall consist of one week of total, partial, or part-total unemployment.

“An individual shall be required to serve but one waiting period during his benefit period.

“The first week of total, part-total, or partial unemployment in such individual’s benefit period will be deemed the waiting period week if during such week the individual was otherwise eligible for benefits and his earnings during such week were less than his weekly benefit amount. Thereafter he must register on the day and in the manner fixed by the representative of the Board.

“Except as otherwise provided in Regulation 809, where an individual is required to register at a special registration point and, being otherwise eligible, earns less than his weekly benefit amount in a week, exclusive of the sum of \$3 earned from other than his regular employer, such week shall be counted as a waiting period week if for good cause shown the individual is unable to register on the prescribed day, but does register during the following calendar week. In addition to the requirement that an individual must register for work during any week with respect to which he claims waiting period rights, such individual must, after completion of such week, report in person, or by mail, if permission so to report by mail has theretofore been granted to such individual by the Director, to the employment office or special registration point for the purpose of disclosing earnings, if any, and establishing his availability for work during such week. *Such reporting must be made not later than during the week following the week claimed, and if permission to report by mail has been granted to such individual, then such report must be mailed not later than during the week following the week claimed; Provided, that this requirement may be waived by the Director or a representative of the Board upon a showing of good cause.*” (Our emphasis.)

Section 1402, page 673, Chapter 208, Acts 1947, as amended by Section 14, page 626, Chapter 177, Acts 1953, the same being Section 52-1538a, Burns' Indiana Statutes Annotated (1951 Repl.) reads as follows:

"Sec. 1402. An unemployed individual shall be eligible to receive benefits with respect to any week only if: *He has registered for work at an employment office or branch thereof, or other agency designated by the Board within such time limits and has subsequently reported with such frequency and in such manner, either in person or in writing, as the Board may by regulation prescribe*; Provided, That failure to comply with this condition may be excused by the Director upon a showing of good cause therefor; and Provided, further, That the Board may by regulation waive or alter the requirements of this section as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this Act."
(Our emphasis.)

Thus it clearly appears from the language in Section 1402 (last cited above) that the Board by regulation may prescribe the time limits, manner and frequency which a claimant must report in order to be eligible for benefits. The Board now has in force Regulation 804 (cited herein) wherein it is to be noted that the Director or a representative of the Board upon a showing of good cause may waive the present requirement that a claimant must report the week following the week of initial claim.

Therefore it is my opinion that the Director or a representative of the Board upon a showing of good cause may waive the requirement that the claimant must report the week following the week claimed; and/or the Board may by regulation amend its Regulation 804 for the purpose of changing the time limit, manner and frequency of reporting but only to the extent that it does not eliminate the requirement of a waiting period or any other requirement now necessary to establish benefit rights.