BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

PRECEDENT
BENEFIT DECISION
No. P-B-480

In the Matter of:

RUTH COHEN et al.
(Claimants)
See AB Appendix
[Appendix removed in accordance with California Code of Regulations, title 22, section 5109(e)]

CASE NO. 95-04680-1
CASE NOS. 95-04681-1
through 95-04681-16

LOS ANGELES SCHOOL DISTRICT
(Employer)

Office of Appeals No. ING-28360

In September of 1992, the Los Angeles Unified School District (hereafter District or Employer) applied and was granted approval for a work share plan. The provision of the District's work-share plan that gives rise to this controversy states that employees shall no longer be paid for legal holidays that were previously paid holidays. After approval of the plan, claims were filed on behalf of District employees. The Employment Development Department (hereafter EDD) denied most claims for the weeks ending November 14 and 28, 1992, and January 23 and February 20, 1993[1], pursuant to its understanding of the provisions of section 1279.5 of the Unemployment Insurance Code (hereafter Code). Thousands of appeals from these determinations were filed by claimants.

The appeals were consolidated, and it was agreed by all partied that the various unions representing the claimants would submit the names or representative claimants for purpose of hearing a decision on the legal issues. One hearing was held in relation to all the claimants identified by their unions as the lead cases, and the testimony and exhibits were handled collectively.

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[1] The holidays falling within the weeks at issue were Veterans Day, Thanksgiving, Martin Luther King, Jr. Day, and Presidents' Day Holiday, respectively.

The three case numbers heard by the administrative law judge were consolidated into two. The administrative law judge, with one exception, affirmed the determinations issued by EDD and held the claimants ineligible for unemployment insurance benefits under section 1279.5 of the code for the weeks in question. The claimants have appealed from that portion of the decision of the administrative law judge holding them ineligible.

STATEMENT OF FACTS

In the school year, 1992-1993, the Employer was facing a $400,000,000 budget deficit, the latest of several annual deficits. The Employer determined that salary reductions were required. However, it also felt that not all employees should have the same percentage reduction in pay.

The Employer and the representatives for the affected employee collective bargaining units (hereafter the unions) agreed that, rather than simply reduce the pay of these individuals, the employees, with limited exceptions not relevant to this decision, would be required to take a certain number of unpaid furlough days. The employees in this case are generally non-instructional employees, involved in school support services (classified employees). The number of furlough days would be determined by a formula that factored an employee's pay level and the number of days on which the employee was normally employed (or "basis"). Upon implementation of the furlough plan in the 1992-93 school year, it was anticipated that the individuals would neither work nor receive compensation on furlough days. These would be drawn from days the employee had previously been paid, either as a regular workday or a paid holiday.

Initially, the Employer considered several different ways of handling furlough days. Among the key questions was whether the days were to be consecutive (taken in blocks), or instead spread throughout the school year. The Employer was concerned about its operational needs and wished to minimize the instructional days employees did not work. The unions were concerned about the impact of the loss of income on the employees.

On July 16, 1992, the Employer signed a furlough agreement with the Associated Administrators of Los Angeles (hereafter AALA) that provided the furlough days were to be taken first over the Winter break, one or two days over the Spring break, and finally, days taken in consultation with, and with approval of, the employee's supervisor. Holidays were explicitly exempted as furlough days.

On August 18, 1992, the Employer filed an application with the State Board of Education requesting waiver of the requirement under section 45203 of the Education Code that classified employees be paid for legal holidays. This request was made with the knowledge and approval of the relevant collective bargaining units. On September 8, 1992, the request for waiver was approved.

Despite these conceivably contradictory approaches (though evidently concerning different bargaining units), the weight of the evidence, particularly given the agreement with AALA, was that the Employer and the unions were leaning towards taking furloughs in a block of time.

On August 25, 1992, a meeting was held between the Employer's representatives, the unions and EDD. The purpose of the meeting was to explore the impact of furloughs on eligibility for unemployment benefits. Prior to the meeting, the Employer and the unions had little, if any, knowledge about, or understanding of the work share programs as interpreted by EDD. At that meeting, EDD representatives provided general information about the work share program as it was set forth in the Code. A question was raised about holidays in the work share context. A union representative asked what would occur if a previously paid holiday became an unpaid holiday. EDD's representative indicated it would be treated like a "regular workday". The Employer and union representatives interpreted the comment to mean that an individual would be eligible for work share benefits in a week where his or her pay was reduced because holiday pay for that week had been eliminated. This was based in part upon their understanding of regular unemployment benefits, which allows full weekly benefits to be paid in weeks in which there was a holiday and the claimant was not expected to work that day, such as when the Fourth of July occurs on a weekday, and a claimant draws full benefits for the week.

At that point, the negotiations between the Employer and the unions shifted and the emphasis became using holidays for the furlough days. A second meeting was held with EDD on October 13, 1992. One purpose of this meeting was to discuss concerns about eligibility for benefits under the work share program. The issue of holidays was again broached. EDD again indicated that holidays would be treated in the same manner they were for regular unemployment insurance benefits.

A third meeting was held on October 21. There were additional conversations regarding vacations which, in essence, repeated the previous discussions.

On October 22, 1992, the Employer entered into Memoranda of Understanding (hereafter MOU) with most of the unions representing employees in this case. The United Teachers-Los Angeles, representing certificated personnel, did not enter into a MOU until 1993. In each MOU, similar priorities were created for the furlough days. In fact, the previous agreement with AALA was changed so its members' furloughs would coincide with those of the members of other units. First, nine holidays were identified. These were legal holidays, except for the day after Thanksgiving and December 31, which were District declared holidays. Individuals had previously been paid for these days. Under the furlough program, the employee would not be paid for these holidays. If the furloughed employee required additional furlough days, the priority order was: first, pupil free days, then Winter break, then Spring break, and finally regular work days. At the time the collective bargaining agreements were signed (excepting UTLA), the work share plan for the Employer had not been approved by EDD. Each MOU stated the Employer would make every good faith effort to secure approval for such a plan.

The Employer submitted its plan for work share participation. At the request of EDD, the plan was general in nature and did not specify which days would not be worked by the employees. On December 15, 1992, the plan was approved effective September 27, 1992. The plan was to expire March 27, 1993. It has been renewed since that date.

During the Winter break, a conversation occurred between representative of EDD in the work share group and the Employer. At that time, EDD indicated that there was a problem in finding eligibility for work share in a week when the only day not worked was a holiday. This contradicted the Employer's understanding of EDD's position in the conversations during the meetings in August and October. Numerous letters were exchanged between the parties and EDD, during which EDD indicated that eligibility would be denied for the weeks at issue here. Finally, in March 1993, EDD formally notified the Employer that, after researching its interpretation of section 1279.5 of the Code, the law prohibited payment of benefits in these circumstances, when furlough days are scheduled only on previously paid holidays.

The claimants and the Employer contend that EDD's "change" in position was occasioned by its discovery that inclusion of holiday only weeks would add $20,000,000 to the cost of the work share program. It is noted that the financial analysis for the costs was released in February 1993. While the more formal opinion denying benefits was issued in March 1993, after the cost analysis, EDD had indicated clearly its position denying benefits prior to February 1993.

As part of the work share program developed by the Employer and EDD, the Employer became responsible for creating, disseminating, collecting, and filing the claim forms on behalf of its employees requesting work share benefits. Employees would receive the claim forms at their work location and return them to that location.

When EDD issued the notices of determination at issue, thousands of appeals were filed. Most appeals were made on forms prepared by the claimant's particular union. Many of the appeals were untimely filed, some by the claimants directly, some by the union representatives.

Claimant Rosa Contreras filed her appeal approximately six weeks late. When she received her notices of determination, she went to the personnel clerk at her work location who had handled the work share paperwork. She was informed by the clerk to wait. Two months later, the claimant was given forms to file the appeal and she did so.

Claimant Judith Reisma was sent a notice of determination dated October 7, 1993, relating to her eligibility under section 1279.5 of the code. On October 14, 1993, the EDD mailed her a second determination regarding her eligibility under section 1253.3 of the code. The claimant's appeal was filed on November 2.

Claimant Sabine Littlefield filed an appeal which on its face was timely. The EDD contends it was two days late because of the post-mark on the envelope. Based on the claimant's credible evidence, it is found that the claimant placed her appeal in a Post Office box timely, and the post-mark was from a central postal service location and not the local office handling the claimant's mail.

Claimant Marietta Chatman was mailed a notice of determination relating to eligibility under section 1279.5 of the code on October 18, 1993. When she received the document, she went to the clerk at her work location in charge of the work share paperwork. The clerk indicated she would not file an appeal if she were her. On November 16, 1993, the EDD mailed a second notice of determination relating to eligibility under section 1253.3 of the code. The claimant filed an appeal that was timely as to that second notice. Her appeal indicated she was appealing both determinations.

Claimant Joan Michaelis was mailed notices of determination on September 8, 1993. When she received them, she spoke with the clerk at her work location. She was told that appeals were outside the purview of the clerk and the claimant would have to appeal on her own. The claimant was pregnant and decided she did not wish to file additional paperwork. She left on maternity leave effective october 1, 1993. She filed her appeal on December 16, 1993, when she was given an appeal card from her union.

Claimant Helen Torres was sent a notice of determination on August 18, 1993. She filed her appeal on December 17, 1993. She did not file earlier because she was discouraged. She did not discuss a possible appeal with anyone until a person came to the work site in December and encouraged her to appeal.

Claimant Ruth Cohen was mailed a notice of determination on August 24, 1993. She filed her appeal on September 23, 1993. When she received her determination, she was the only person at her work site to do so. Later many other individuals received similar notices and the claimant then filed her appeal.

Claimant Marie Nunez was mailed notices of determination on October 12, 1993. She filed her appeals on November 17, 1993. Due to a mistake by the postal service, the claimant did not receive her determination until the middle of November.

REASONS FOR DECISION

Section 1328 of the Unemployment Insurance Code provides that an appeal from a determination must be filed within 20 days of mailing or personal service of the notice. The time may be extended for good cause, which includes, but is not limited to, mistake, inadvertence, surprise, or excusable neglect.

In this case several appeals were filed late. It is noted that, in many respects, the administration of this program was handled by the Employer rather than EDD. Due to the large number of claimants involved, and the fact the Employer and EDD were attempting to work out the details of administration, there was a substantial amount of confusion. As a result, the claimants were not clear on their rights and obligations, and in many cases were given erroneous advice. As most of the late appeals were the direct result of these problems, we concur with the administrative law judge that good cause exists for the late appeals.

Further, the issues in these cases were novel, which caused substantial delays by EDD in ascertaining eligibility and the Appeals Board in adjudicating the appeals. Had the appeals been filed timely, no action could have been taken immediately. EDD has not demonstrated any prejudice from the delay. We therefore concur with the administrative law judge that good cause exists to extend the time for appeal in all cases herein, even those where there was no specific misinformation given to the claimant.

Section 1279.5 of the Unemployment Insurance Code provides, in relevant part:

> "(a) Notwithstanding Section 1252 or 1252.2 or any other provision of this part, for the purposes of this section an individual is "unemployed" in any week if the individual works less than his or her normal weekly hours of work for the individual's regular employer, and the director finds that the regular employer has reduced or restricted the individual's normal hours of work, or has rehired an individual previously laid off and reduced that individual's normal hours or work from those previously worked, as the result of a plan by the regular employer to, in lieu of layoff, reduce employment and stabilize the work force by a program of sharing the work remaining after a reduction in total hours of work and a corresponding reduction in wages of at least 10 percent. The application for approval of a plan shall require the employer to briefly describe the circumstances requiring the use of work sharing to avoid a layoff. Normal weekly hours of work means the number of hours in a week that the employee normally would work for the regular employer or 40 hours, whichever is less. The plan must involve the participation of at least two employees and include not less than 10 percent of the employer's regular permanent work force involved in the affected work unit or units in each week, or in at least one week of a two-consecutive-week period.

A plan approved by the director shall expire six months after the effective date of the plan.
(b) Except as otherwise provided in this section, each individual eligible under this chapter who is "unemployed" in any week shall be paid with respect to that week a weekly shared work unemployment compensation benefit amount equal to the percentage of reduction of the individual's wages resulting from an approved plan, rounded to the nearest five percent, multiplied by the individual's weekly benefit amount.

* * *

(g) For the purposes of this section, an individual shall not be disqualified under subdivision (c) of Section 1253 for any week if both of the following conditions exist:

(1) The individual has not been absent from work without the approval of the regular employer.
(2) The individual accepted all work the regular employer made available to the individual during hours scheduled off due to the work-sharing plan."

The central question is whether paid holidays can be considered as hours worked. The EDD contends that, since traditionally no work was performed on holidays, the claimants "worked" the same number of hours before and after the furlough program was instituted, and therefore fail to meet the requirements of section 1279.5 (a). We concur.

Under the District's work-share plan, each employee lost holiday pay for legal holidays which were previously paid holidays. As to the weeks in question, there is no dispute that there was at least a 10 percent reduction in wages for the claimants, and that at least 10 percent of the employer's regular permanent work force had a loss of wages. The primary issue to be resolved is whether there was a 10 percent reduction in "normal hours of work," thus rendering the claimants "unemployed" within the meaning of section 1279.5.

To resolve this issue, a discussion of the basic differences between regular unemployment compensation and work share benefits is important. For most unemployment compensation claimants, an individual is "unemployed" if he or she works less than full-time and his or her wages, when reduced by 25%, are less than the weekly unemployment benefit.

Benefits are payable based on a comparison of wages earned and the weekly benefit amount. It is assumed for purposes of this decision that none of the claimants in this case was "unemployed" during the affected weeks under the requirements of section 1252.

The work share program under section 1279.5, however, is based on a different premise. "Unemployment" under the work share program is not based on a comparison of wages to a weekly benefit amount. Rather, the individual's new work schedule is compared to the previous or regular schedule, and the claimant is "unemployed" if he or she has at least a 10 percent reduction in hours worked and wages. The actual benefits to be paid are calculated by determining the percentage wage loss, rather than comparing the wages earned against the weekly benefit amount.

In each of these cases, EDD has denied benefits in those weeks where the only day of "unemployment" was a holiday. In each case, the claimants had previously been paid for that holiday, but under the employer's furlough program, payment was no longer available. As the claimants in this case never worked on the holidays, except as noted below, we agree with EDD's position that there was no reduction in hours worked, and therefore no eligibility for work share benefits.

The administrative law judge ruled that there is nothing within section 1279.5 which would argue for anything but the common sense definition of "hours worked." The purpose of the statute is to forestall loss of employment by "sharing" the available work. As to the weeks at issue in this appeal, the same number of hours of work were performed by each claimant, and by all claimants collectively, before and after the furloughs were instituted. Thus, if holidays are to be treated as work in this case, claimants would be eligible for work share benefits without sharing any work. We reject any construction of Unemployment Code section 1279.5 that produces such illogical results. As section 1279.5(a) clearly and unambiguously requires a reduction of at least 10 percent in hours worked, the claimants must meet that standard in any week they wish to claim benefits.

On appeal, the unions, on the claimants' behalf, also contend that the definition of hours worked found in Education Code section 45128 should be used in determining the meaning of "hours worked" in section 1279.5(a). Section 45128 of the Education Code provides, in relevant part:

> "For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee."

The claimants have provided no logical or legal basis for their argument that Education Code section 45128 should supersede the plain language of section 1279.5(a). The administrative law judge specifically rejected the use of Education Code section 45128 and the parties' collective bargaining agreement in defining "hours worked." He stated that the language of both the Education Code and the collective bargaining agreements was directed to the issue of overtime. There is a rationale for including holidays within the definition of work for overtime purposes to insure the employees get the benefit of a day off. That purpose is not furthered, however, in the context of the work share program. For these reasons, he concluded that the requirements of Unemployment Insurance Code section 1279.5(a) are not met when the claimant's only claimed unemployment is the loss of holiday pay.

The claimants' reliance on the collective bargaining agreements which cover their working relationship with the District is similarly misplaced. These agreements all have similar provisions to the effect that paid holidays are to be considered work days. This is important because all employees must "work" a certain number of days each school year to meet the requirements of their basis, and the contract language requires holidays to be included in those calculations. We decline to defer to the language of the contracts. There is no ambiguity in the statute which would call for us to look to the parties' agreements for guidance. Further, to permit parties to, in essence, write their own definition of statutory language would lead to chaos in statutory interpretation.

The fundamental problem with the unions' position is that it misinterprets what holiday pay is. Paid holidays are a benefit, not wages earned for hours worked. While this employer and the unions had negotiated for paid holidays in the past, there are many employers who even now permit employees to take holidays, but do not compensate them for such. Holiday pay, when given, usually corresponds to an employee's daily rate.

However, this custom is by no means required by wage and hour laws which govern most minimum pay rates. The work share program was created to deal with wage losses, not benefit losses. Therefore, the requirement that the employee suffer from a decline in "hours worked" is wholly in keeping with the goal of compensating employees who suffer wage loss due to a work share program. To find claimants eligible for unemployment benefits when their wage loss is due solely to the loss of a benefit would open a Pandora's box not even remotely contemplated by the legislature.

The claimants also rely on section 1279.5(g) for the proposition that unemployment benefits cannot be denied so long as the claimants are available for all work assigned by the employer. However, not all persons who are unemployed are eligible for benefits. Section 1279.5(g) relates only to eligibility for unemployment benefits under section 1253(c) of the code, which requires a claimant to be able and available for work. While this is an important eligibility criterium, it is irrelevant to the issue whether an individual is unemployed in a particular week.

It should be noted that this does not mean the loss of wages for the holiday is irrelevant for purposes of the work share program. As conceded by the EDD, should the claimant have a 10% loss of real work in any week and thus meet the requirements of section 1279.5(a), the loss of wages for the holiday is compensable pursuant to section 1279.5(b).

The claimants next argue that even if the claimants are not eligible for work share benefits as described above, EDD is estopped from denying benefits because of its assurances to the claimants' unions that they would be eligible.

As set forth in Driscoll v. City of Los Angeles (1967) 67 Cal.2d 297, 305, 61 Cal.Rptr. 661, 666, there are four general requirements for establishing equitable estoppel:

> (1) The party to be estopped must have been apprised of the relevant facts;
>
> (2) That party must have intended that its conduct be acted upon or must have acted so that the party asserting the estoppel had a right to believe it was so intended;

(3) The asserting party must have been ignorant of the true state of the facts; and

(4) The asserting party must have relied on the other party's statements or conduct.

The administrative law judge found that the parties did have discussions with EDD on the issue of using holidays as work share days. Although the parties provided contradictory evidence as to the extent and nature of conversations between EDD and the claimants' representatives, the administrative law judge found the testimony of the claimants' and district's witnesses to be straightforward, consistent, and unambiguous. We find no reason to reject his resolution on the issues of credibility. This matter was an extremely important issue to the Employer and the unions. EDD's witnesses, on the other hand, were not as consistent nor were their memories as clear and unambiguous. Also, the issue of holidays was not central to EDD. While some of EDD's ambiguity could be the result of the fact that EDD was attempting to prove a negative, namely that information was not given, the administrative law judge found the claimants' evidence to be more convincing. It therefore is concluded that holidays were discussed during the meetings, that the claimants' representatives were told that holidays would be compensated as they were for regular unemployment benefits, and that the claimants' representatives left the meetings in September and October with the clear impression that holidays were to be treated like any other day for all purposes of work share benefits. The fact the representatives believed that the holiday issue had been resolved, however, does not end the inquiry as to whether estoppel is appropriate.

As to the first element to establish estoppel, there were specific discussions with EDD regarding the treatment of holidays. Contrary to EDD's assertions, the issue was raised and EDD was on notice that the issue was important to the claimants. Nonetheless, we concur with the administrative law judge that the EDD representatives did not understand that the seemingly general inquiries were eventually to be applied to the specific requirements of section 1279.5(a). The relevant fact upon which this issue rests is that benefit claims would be made for an unpaid legal holiday where such a holiday was the only day of the week the claimant did not work. Nothing in the record establishes that EDD representatives anticipated the filing of such claims.

Moreover, the unique nature of such claims makes it quite reasonable that the union's inquiries would fail to elicit answers from EDD that directly address the situation. The questions were general in nature, i.e. what was the impact of holidays on the work share program. As has been noted above, at the time these discussions were being held, the unions and the Employer were leaning towards taking furloughs in a block of time. Within the context of taking furlough days in a block of time, one day of which might be a holiday, EDD indicated that holidays were treated as they were for regular unemployment benefits. For purposes of section 1279.5(b) and the calculation of the amount of benefits, that information was correct. The questions to EDD never specifically referred to section 1279.5(a), or whether unpaid holidays could be considered as "hours worked" within the meaning of that section when the holiday was the only day of the week no work was performed.

While there is no doubt the claimants' representatives inferred the answers related to both compensation under section 1279.5(b) and eligibility under section 1279.5(a), EDD responses are most reasonably subject to the interpretation that its representatives were responding solely in reference to subsection 1279.5(b). This conclusion is reinforced by the fact that once EDD was formally notified that there were weeks in which the only possible loss of work was the elimination of holiday pay, it notified the unions that eligibility in such weeks was not possible.

The negotiations and consultations in this case created a serious and unfortunate failure of communication between the parties. The unions and the Employer believed they had heard a partial answer to their concerns. They were operating under time pressures and a lack of specific information about the work share program. EDD was responding to questions on many different fronts, only one of which was the question of holiday pay. EDD representatives were not asked specific questions regarding the issue of whether holidays could be considered hours worked within the meaning of section 1279.5(a). Thus, while it was reasonable for the claimants' representatives to believe the issue had been thoroughly explored, we concur with the administrative law judge that EDD was answering a different question than the claimants thought they were asking. As estoppel is unfavored in the law, this ambiguity undermines a finding for estoppel because the parties and EDD never had a meeting of the minds on what was being discussed. It therefore is concluded the first requirement for estoppel has not been fulfilled.

Furthermore, we cannot conclude that the parties detrimentally relied upon the conversations the parties had with EDD prior to the work furlough plan adoption. As for the Employer's claim of reliance, it must be noted that the Employer applied for a waiver of its legal obligation to pay for holidays prior to learning of the possibility of work share benefits for such days. Thus, it cannot be said that the Employer's decision to implement a work share plan involving unpaid holidays was made in reliance upon EDD's representations.

The union representatives also claim that they would have bargained differently with the employer had they known work share benefits were not available in the holiday weeks at issue. Impairing the unions' ability to negotiate a better deal for its constituents prior to EDD's approval of the work share plan does not estop EDD from denying benefits to those who submit claims under the Employer's work share plan. This is because the Employer and the unions were first made aware of EDD's position on this issue during the 1992-93 winter break, well in advance of any claims being submitted in reliance on EDD's earlier representations. None of EDD's representations, misunderstood or otherwise, has prevented the unions and the Employer from going back to the bargaining table to renegotiate their contracts. Upon being apprised of EDD's position, the parties made the decision to file claims rather than renegotiate their contracts. Because such a renegotiation could have taken place at any time subsequent to EDD's position being made known, the defense of estoppel simply does not apply to the unions' ability to renegotiate a different contract.

Inasmuch as the United Teachers-Los Angeles did not enter into their memorandum of understanding with the employer until some time in 1993, no detrimental reliance can likewise be ascribed to it or its constituents. Because the unions were made aware of EDD's position before any claims under the work share program were made, neither the union, nor the claimants who relied on union advice, can claim that the Department is estopped from denying benefits. Because EDD notified the parties of its interpretation of the statute shortly after approval of and prior to implementation of the work share plan, and certainly before any claims were made under the work share plan, we find that estoppel will not lie here because there is insufficient evidence of detrimental reliance.

Additionally, the courts have consistently held that there is a higher standard to be met to estop the government and to allow a benefit contrary to the provisions of a statute. (See City of Long Beach v. Mansell (1970) 3 Cal.3d 462, 91 Cal.Rptr. 23; Fleice v. Chualar Union Elementary School District (1988) 206 Cal.App.3d 886, 254 Cal.Rptr. 54.)

Most of the cases cited by the parties to the administrative law judge involved questions of timely application for benefits. (See, for example, Fredrichsen v. City of Lakewood (1971) 6 Cal.3d 35, 99 Cal.Rptr. 13; Fullerton Union High School District v. Riles (1983) 139 Cal.App.3d 369, 188 Cal.Rptr. 897.) There is a clear distinction between such situations and that posed in this case. There is a strong public policy forbidding the government to deny benefits to an individual would otherwise be eligible after the individual failed to file for the benefits in reliance upon the government's actions. No such policy exists, and the courts have indicated it would be inappropriate, to require the government to pay benefits not available under the statute. Fleice v. Chualar Union Elementary School District, 206 Cal.App.3d 886, supra.

As it has been found that benefits would not generally be available under section 1279.5(a) during the weeks in questions, and as estoppel has not been established, benefits were properly denied for the weeks in question.

DECISION

Good cause has been shown for the late appeals. The appealed portion of the decision of the administrative law judge is affirmed. The claimants are not eligible for benefits under section 1279.5 of the code for the weeks specified in their determinations.

Sacramento, California, November 2, 1995.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

LOUIS WM. BARNETT, Chairman

INGRID C. AZVEDO

GEORGE E. MEESE

JAMES S. STOCKDALE

PHILIP S. RYAN -- Abstaining

DAVID A. ROBERTI -- Abstaining

ROBERT P. MARTINEZ