



Department  
for Work &  
Pensions

## Secretary of State's Response

### Section 1: Personal details

**Name:** <Title> <Forenames> <Surname>

**Address:**

**NI No:** <NINo>

**Benefit:** <Benefit Type>

**Date of decision:** <Decision Date>

**Date decision notified:** <SODN>

**Date of reconsideration:** zDateRecon

**Date appeal received:** <Date Lodged>

**Decision maker's name  
and address:** <Decision Maker>

**Name and address of the  
decision maker's  
representative (if any):**

**Address where documents  
for the decision maker may  
be sent or delivered:**

**Name and address of any  
other respondents and  
their representatives (if  
any):** <RepName>

Section 2: Schedule of evidence

**Comment [M1]:** List all evidence included in the submission

Document No.	Date of document	Date of receipt/issue	Brief description of document

Section 3: The decision

Section 4: The facts of the case

- 1. <Title> <Surname> is a single/married <manwoman> and was born on <DoB>. On zDateRecESA, <Title> <Surname> made <hisher> claim to Employment and Support Allowance by telephone/ on the approved form. <HeShe> claimed from and including zClaimDate on the basis that <heshe> was suffering from zMedCon.
- 2. On <Decision Date> the Decision Maker considered the case and decided that <Title> <Surname>'s claim could not be backdated more than 3 months and that <heshe> is not entitled to Employment and Support Allowance from \*.
- 3. <Title> <Surname> made an appeal on the approved form, on the grounds that \*.
- 4. The decision of <Decision Date> was reconsidered on zDateRecon but not revised.

Comment [M2]: Apply as appropriate

Comment [M3]: Enter date of birth

Comment [M4]: Apply as appropriate

Comment [M5]: Enter period

Comment [M6]: Briefly summarise customer's grounds of appeal only addressing the issues raised in the appeal

## Section 5: The response

1. The law states that a person cannot establish entitlement to Employment and Support Allowance unless <heshe> makes a claim for it, in the prescribed manner, and within the prescribed time.

**Social Security Administration Act 1992, section 1(1)**

2. Every claim for Employment and Support Allowance must be made either by telephone to the telephone number specified by the Secretary of State, or in writing on a form approved by the Secretary of State.

**Social Security (Claims & Payments) Regulations 1987, regulations 4(G) & 4(H) (amended by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008).**

3. If either a telephone or written claim for Employment and Support Allowance is defective at the date when it is received, the Secretary of State is to advise the person making it of the defect, and if the defect is corrected within one month, or such longer period as the Secretary of State may consider reasonable, of the date that the Secretary of State last drew attention to that defect, the Secretary of State shall treat the claim as if it had been duly made in the first instance.

**Social Security (Claims & Payments) Regulations 1987, regulation 4G (4) & (5). (amended by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008).**

**Comment [M7]:** Insert para only if defective claim

4. Where a person notifies by any means an appropriate office of an intention to claim Employment and Support Allowance, the date of claim will be the later of;

- i) the date on which that notification is received or
- ii) the first day in respect of which a claim is made

provided that a properly completed claim is received in an appropriate office within one month, or such longer period as the Secretary of State considers reasonable of the notification of intention to claim.

**Social Security (Claims & Payments) Regulations, regulation 6(1F) (amended by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008).**

5. Where the appropriate office is closed, for example at the weekend and the claim is delivered by hand or for a claim that would have been delivered by post except that arrangements had been made with the Post Office not to deliver mail, the claim is made on the day it is delivered by hand or would have been delivered by post, had the office been open.

**R(SB) 8/89.**

6. The prescribed time for claiming Employment and Support Allowance is the day in respect of which the claim is made and the period of 3 months immediately following it.

**Social Security (Claims & Payments) Regulations 1987, regulation 19(1) & Schedule 4 (amended by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008).**

7. On <Decision Date> the Decision Maker decided that <Title> <Surname> is not entitled to Employment and Support Allowance for the period from zBack to zClaimDate (both dates included). This is because <hisher> claim was made on zDateRecESA, there is no provision in law to take into account individual circumstances and there can be no extension of the absolute 3 month time limit.

8. *Appeal submission goes here.*

9. I respectfully request that the tribunal confirms the decision that <Title> <Surname>'s time for claiming Employment and Support Allowance cannot be extended to zClaimDate as there is no provision in law to do so.

**Access to statute and case law for appellants**

Copies of the law referred to in this response are available at some libraries. It can be accessed on-line via the DWP's website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

Reported decisions of the Social Security Commissioners from 1991 can be accessed on-line via the DWP's website at <http://www.dwp.gov.uk/commdecs/index.asp>

**Comment [M8]:** Include argument to why the decision should be upheld. Consideration should be given to all points raised in their appeal. Include references to **relevant** legislation to justify the argument. Also include evidence used that influences this view and why other evidence, if available, was not strong enough to contradict