

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER D ORTIZ
Claimant

APPEAL 24A-UI-03483-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/10/24
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Christopher D. Ortiz, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) March 28, 2024, (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Ortiz REGULAR (state) UI benefits as of March 24, 2024 because IWD concluded that IWD mailed him a notice to report to IWD for a reemployment and eligibility assessment on March 27, 2024, but he did not do so. On April 3, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Ortiz and IWD for a telephone hearing scheduled for April 23, 2024.

The administrative law judge held a telephone hearing on April 23, 2024. Mr. Ortiz participated in the hearing personally. IWD participated in the hearing through Brittany Davis, lead reemployment career management (RCM) planner. The administrative law judge took official notice of the administrative record and admitted Department's Exhibits 1-4 as evidence.

The administrative law judge concludes Mr. Ortiz is eligible for UI benefits as of March 24, 2024 because he established justifiable cause for not participating in the March 27 assessment.

ISSUE:

Is Mr. **Ortiz** able to and available for work as of March 24, 2024?

Did Mr. **Ortiz** not report to IWD as directed by an IWD representative or offer justifiable cause for not doing so?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. **Ortiz** applied for UI benefits effective March 10, 2024. IWD mailed Mr. Ortiz a letter on March 20, 2024 telling him that he is required to participate in a reemployment and eligibility assessment on March 27, 2024 at 2:30 p.m. The letter also stated that the assessment would be via telephone, IWD would call Mr. Ortiz, and listed Mr. Ortiz's correct telephone number.

¹ Claimant is the person who filed for UI benefits. Appellant is the person or employer who filed the appeal.

Mr. Ortiz received the letter and waited for IWD to call him at the scheduled date/time. IWD called Mr. Ortiz at 2:33 p.m. and 2:43 p.m. Neither call went through. IWD was not able to leave a voice message either time.

The next day, IWD issued the reference 01 UI decision denying Mr. Ortiz UI benefits, as of Sunday, March 24, 2024, which is the Sunday of the week of the assessment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Ortiz is eligible for UI benefits as of March 24, 2024 because he established justifiable cause for not participating in the March 27 assessment.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.2(1)e provides:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

Iowa Admin. Code r. 871-24.23(11) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

UI rules require a claimant to participate in reemployment services unless the claimant shows justifiable cause for not doing so, or the claimant has previously completed the training or services.² If a claimant does not participate in the services without justifiable cause, the claimant is disqualified from receipt of UI benefits until the claimant participates in the services.³ Justifiable cause includes an important and significant reason that a reasonable person would consider adequate justification in view of the importance of reemployment to the claimant. Not participating in the services or not showing justifiable cause means the claimant is not available for work.⁴

In this case, Mr. Ortiz was ready to participate in the March 27 assessment. He did not do so because IWD's calls did not go through. Mr. Ortiz should not be denied UI benefits because of phone issues that are not his fault. Mr. Ortiz has established justifiable cause for not participating in the March 27 assessment. Mr. Ortiz is eligible for UI benefits as of March 24, 2024.

DECISION:

The March 28, 2024 (reference 01) UI decision REVERSED. Mr. Ortiz had justifiable cause for not participating in the March 27 assessment. Mr. Ortiz is eligible for UI benefits as of March 24, 2024.



Daniel Zeno
Administrative Law Judge

April 25, 2024
Decision Dated and Mailed

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² Iowa Admin. Code r. 871-24.6(6).

³ *Id.*

⁴ Iowa Admin. Code r. 871-24.2(1)e and 871-24.23(11).

APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.