

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JANICE K PLENDL**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 16A-UI-07929-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/08/16  
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available  
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report  
Iowa Admin. Code r. 871-24.23(11) – Failure to Report

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 15, 2016, (reference 03) unemployment insurance decision that denied benefits. The claimant was properly notified about the hearing. A telephone hearing was held on August 30, 2016. The claimant participated personally. Department exhibit D-1 was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the claimant fail to report to the Agency as directed?  
Is she able to and available for work?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 8, 2016. When the claimant filed the claim for the week ending July 2, 2016 by telephone claim, she mistakenly responded to the question “Did you refuse work?” “Yes.” This was an error, as she did not refuse work during the week. She has been unemployed since that time, has been available and actively looking for work, and has not refused any work. As a result of the response she provided on the weekly claim, a fact-finding interview was scheduled for July 14, 2016 at 9:30 a.m. The claimant was aware of the fact-finding interview but did not receive a phone call or voicemail indicating she had missed the schedule call.

The claimant has no medical restrictions at this time but avoids work involving standing entirely. Her job searches have included bus driving (she has performed similar work and has a commercial driver’s license) and store clerk positions, within the Remsen and LeMars local area.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and the claimant has established a good cause reason for having failed to report as directed.

Iowa Code § 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.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

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.

The unemployment insurance law provides that a claimant must be able to work, available for work, and actively seeking employment. Iowa Code § 96.4-3. Under the unemployment

insurance rules, a claimant who fails to report as directed to the Agency in response to a notice mailed to the claimant is deemed unavailable for work. 871 IAC 24.23(11).

The claimant testified very believably that she did not receive the phone call for the fact-finding interview, nor any voicemail informing her that she missed the call. She, therefore, is not deemed unavailable for work for not responding to the Agency. She has explained that her response on her weekly claim was in error. Since she did not receive the phone call for the fact-finding interview, the claimant has established a good cause reason for failing to report as directed, benefits are allowed.

**DECISION:**

The unemployment insurance decision dated July 15, 2016 (reference 03), is reversed. The claimant is qualified to receive unemployment insurance benefits effective July 10, 2016, if she is otherwise eligible.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

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