

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRANDI K DONNELLY
Claimant

APPEAL NO. 21A-UI-05618-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/27/20
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.4(7) – Re-employment Services
871 IAC 24.2(1)(e) – Failure to Report as Directed

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 9, 2021, reference 03, decision that denied benefits effective January 31, 2021, based on the deputy's conclusion that the claimant failed to report as directed for re-employment and eligibility assessment on February 5, 2021 and, therefore, did not meet the availability requirement. After due notice was issued, a hearing was held on April 27, 2021. Claimant participated. Maria Cortez, Iowa Workforce Development RESEA Career Planner participated. Exhibits 1 through 4 were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO and DBRO.

ISSUES:

Whether the claimant failed to report to Iowa Workforce Development as directed and, therefore, did not meet the available for work requirement.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective December 27, 2020. The claimant made weekly claims for each of the six weeks between December 27, 2020 and February 6, 2021. On January 18, 2021, Iowa Workforce Development mailed a notice to the claimant at her last-known address of record in which the Agency directed the claimant to report for a re-employment services and eligibility assessment (RESEA) meeting at 9:00 a.m. on February 5, 2021. The notice advised the claimant that if she was unable to attend the scheduled meeting, she was she was required to called the number on the notice to report prior to the date of the employment to discuss options. The notice advised that failure to report would result in interruption of unemployment insurance benefits. The correspondence included an insert indicating that the meeting would be conducted by telephone and that the claimant should be available at the number she had previously provided to Iowa Workforce Development. The weight of the evidence indicates that the notice to report was delivered to the claimant's address of record in a timely manner, but that the claimant did not open or review the correspondence.

At the time of the scheduled meeting, the RESEA Career Planner twice called the claimant's number of record and in both instances encountered a message that said the number was not in service. The RESEA Career Planner waited a few days to see whether she would hear from the claimant and then issued the February 9, 2021, reference 03, decision that denied benefits effective January 31, 2021. Though the decision stated that the disqualification would continue until the claimant reported for the assessment, the claimant never took steps to do that.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(7) provides:

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

7. The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Iowa Admin. Code r. 871-24.6(1-6) provides:

Reemployment services and eligibility assessment procedure.

(1) The department of workforce development will provide a program which consists of profiling claimants and providing reemployment services.

(1) Purpose.

a Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

(3) Reemployment services and eligibility assessment may include, but are not limited to, the following:

- a. An assessment of the claimant's aptitude, work history, and interest.
- b. Employment counseling regarding reemployment approaches and plans.
- c. Job search assistance and job placement services.
- d. Labor market information.
- e. Job search workshops or job clubs and referrals to employers.
- f. Résumé preparation.
- g. Other similar services.

(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause..

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.

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. ...

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. Iowa Administrative Code rule 871-24.2(1)(e). 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. Iowa Administrative Code rule 871-24.23(11).

The evidence establishes that the claimant failed to report as directed for a re-employment services and eligibility assessment (RESEA) meeting February 5, 2021 and, therefore, did not meet the available for work requirement effective the week that began January 31, 2021. Benefits are denied effective January 31, 2021.

DECISION:

The February 9, 2021, reference 03, decision is affirmed. The claimant failed to report as directed for a re-employment services and eligibility assessment (RESEA) meeting February 5, 2021 and, therefore, did not meet the available for work requirement effective the week that began January 31, 2021. Benefits are denied effective January 31, 2021.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

August 31, 2021
Decision Dated and Mailed

jet/kmj