

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

CYNTHIA S SARRAZIN
Claimant

APPEAL NO: 14A-UI-00762-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/29/13

Claimant: Appellant (4)

871 IAC 24.2-1-e – Failure to Report
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Cynthia S. Sarrazin (claimant) appealed a representative's January 17, 2014 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits because she had not responded to an Agency notice to respond to an issue relating to her eligibility. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on February 12, 2014. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant disqualified from receiving unemployment insurance benefits for a failure to report as directed? Is and was the claimant able and available for work?

FINDINGS OF FACT:

The claimant established an initial claim for unemployment insurance benefits effective December 29, 2013. On or about January 7, 2014 she received a phone call from an Agency representative inquiring as to whether she had worked on December 31, 2013. In the conversation she indicated to the Agency representative that she was going to be having a surgery on January 27, 2014. On January 8 she received another call from another Agency representative, confirming that she had indicated she was going to be having a surgery. On January 9, 2014 the Agency sent the claimant notice that she was to participate in a fact-finding interview regarding her eligibility to be conducted on January 16 between 8:00 a.m. and 9:00 a.m.

The claimant was unaware that her phone was not working to receive calls for a few days in the January 16 time frame. As a result she missed the call from the Agency representative on January 16, but did receive a voice mail message. She did return the call, but was only able to leave a voice mail message in return. The representative's decision was entered when the representative was unable to reach the claimant, and was mailed on January 17.

The claimant in fact did have a surgery on January 27; she is under doctor's orders to stay off work for between four and eight weeks after the surgery. Prior to the surgery she had been able and available to perform work.

REASONING AND CONCLUSIONS OF LAW:

A claimant can be found ineligible for unemployment insurance benefits for a failure to report as required.

871 IAC 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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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 financial institution's account 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.

The claimant had an excusable reason for not participating in the fact-finding interview on January 16. She is not ineligible for benefits by reason of her missing that interview.

The remaining question is whether the claimant is and was able and available for work. With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, be available for work, and be earnestly and actively seeking work. Iowa Code § 96.4-3.

For the period of December 29, 2013 through January 25, 2014 the claimant was able and available for work and eligible to receive unemployment insurance benefits. Beginning the week of January 26, 2014 the claimant is not able and available for work and not eligible to receive unemployment insurance benefits until she is released as able to work by her doctor.

DECISION:

The representative's January 17, 2014 decision (reference 01) is modified in favor of the claimant. The claimant was eligible to receive unemployment insurance benefits from December 29, 2013 through January 25, 2014, if she is otherwise qualified. Benefits are denied as of January 26, 2014 until she is again able and available for work.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs