

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

KATHERINE P ALVAYERO RAMIREZ
Claimant

APPEAL NO. 24A-UI-06861-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 06/30/24
Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On July 29, 2024, Katherine Alvayero Ramirez (claimant) filed a timely appeal from the July 25, 2024 (reference 03) decision that denied benefits effective June 30, 2024, based on the claimant's failure to provide timely proof that she was a U.S. citizen or that she was legally authorized to work in the U.S. After due notice was issued, a hearing was held on August 14, 2024. Claimant participated. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following agency administrative records: DBRO, KCCO, NMRO, and the reference 03 and 05 decisions.

ISSUES:

Whether the claimant was able to work and available for work during the period of June 30, 2024 through July 27, 2024, based on the requirement that the claimant provide timely proof that she is a U.S. citizen or legally authorized to work in the U.S.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Katherine Alvayero Ramirez (claimant) established an original claim for benefits that was effective June 30, 2024. The claimant made weekly claims for each week since she established the original claim.

At the time the claimant established the claim, she reported that she is not a citizen of the United States. The claimant confirms that she is not a U.S. citizen.

On July 3, 2024, Iowa Workforce Development sent a letter to the claimant's Perry, Iowa address of record. The letter directed the claimant to provide proof of legal authorization to work in the United States. The letter directed the claimant to provide a photocopy of her United States of America Employment Authorization card, front and back. The letter stated that the proof of work authorization must be received by IWD by July 13, 2024. The claimant received July 3, 2024 letter on July 6, 2024. The claimant did not respond by the July 13, 2024 deadline.

The claimant is unable to provide a reason for her failure to respond to the July 3, 2024 directive by the July 13, 2024 deadline.

On July 25, 2024, IWD mailed the reference 03 decision to the claimant. The decision denied benefits effective June 30, 2024, based on the claimant's failure to provide proof that she is a U.S. citizen or that she is legally authorized to work in the U.S.

On July 29, 2024, the claimant failed an appeal by email. The claimant attached a photocopy of her work authorization card, front and back, to her emailed appeal. The Appeals Bureau received the appeal on July 29, 2024.

On July 30, 2024, the claimant emailed a second photocopy of her work authorization card to the Appeals Bureau.

On August 8, 2024, IWD mailed a reference 05 decision to the claimant. The reference 05 decision acknowledged receipt during the week of July 28, 2024 of the proof of authorization to work in the U.S. The reference 05 decision allowed benefits for the period beginning, July 28, 2024, provided the claimant was otherwise eligible. Entry of the reference 08 decision effectively limited the disqualification related to the proof of work authorization to the four weeks of June 30, 2024 through July 27, 2024.

REASONING AND CONCLUSIONS OF LAW:

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 Code section 96.5(10) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

10. Aliens—disqualified. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to

such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

i. Available for work. To be considered available for work, an individual must at all times be in a position to accept suitable employment during periods when the work is normally performed. As an individual's length of unemployment increases and the individual has been unable to find work in the individual's customary occupation, the individual may be required to seek work in some other occupation in which job openings exist, or if that does not seem likely to result in employment, the individual may be required to accept counseling for possible retraining or a change in occupation.

...

o. Lawfully authorized work. An individual who is not lawfully authorized to work within the United States will be considered not available for work.

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

(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.

Ms. Alvayero Ramirez (claimant) is not eligible for benefits for the four-week period of June 30, 2024 through July 27, 2024. The claimant failed to comply with the July 3, 2024 notice to submit proof of work authorization by the July 13, 2024 deadline. The claimant did not have good cause for failing to respond by the July 13 deadline. The claimant submitted the required proof of work authorization during the week of July 28, 2024. IWD has issued a reference 05 decision that acknowledges receipt of the work authorization proof during the week of July 28, 2024. Because the claimant did not provide the proof of work authorization until the week of

July 28, 2024, the claimant did not meet the availability requirement during the four-week period of June 30, 2024 through July 27, 2024 and is not eligible for benefits for that four-week period.

DECISION:

The July 25, 2024 (reference 03) decision is AFFIRMED. The claimant failed to respond as directed to the July 3, 2024 directive that she provide proof of work authorization by July 13, 2024. Because the claimant did not provide proof of work authorization until the week of July 28, 2024, the claimant did not meet the availability requirement during the four-week period of June 30, 2024 through July 27, 2024 and is not eligible for benefits for that four-week period.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

August 15, 2024
Decision Dated and Mailed

jet/scn

APPEAL RIGHTS. If you disagree with the 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 Ave 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>.

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 Ave 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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.