

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROXANNE M ELLIS
Claimant

APPEAL 17A-UI-13374-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/05/17
Claimant: Appellant (4R)**

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/appellant filed an appeal from the December 22, 2017 (reference 03) unemployment insurance decision that denied benefits because claimant failed to report as directed. After due notice was issued, a telephone hearing was held on January 22, 2018. Claimant participated. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Is the claimant able to work and available for work?
Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds:

A notice was mailed to claimant at her last known address of record to be available for a fact-finding interview on December 21, 2017 at 9:00 a.m. This interview was regarding her reporting that she was not able to and available for work the benefit week ending December 9, 2017 when she filed her weekly continued claim for benefits.

Claimant received the notice that was mailed to her after the fact-finding interview was held on December 21, 2017 and as such, did not participate in the fact-finding interview. The reason claimant did not receive the notice was because she has not had a key to her mailbox since November of 2017. She typically relied on her mother giving her the mail from her mailbox since her mother has access to claimant's mailbox. However, in December of 2017, claimant and her mother were not getting along and claimant did not retrieve her mail in a timely manner.

Claimant received the notice for fact-finding interview on December 26, 2017. She then contacted her local Iowa Workforce Development ("IWD") office on December 27, 2017 concerning the underlying issue.

The underlying issue which was to be addressed during the fact-finding interview was why claimant reported being unable and unavailable to work for the benefit week ending December 9, 2017. Claimant was not able to and available for work for the benefit week ending December 9, 2017 because she was working full-time on Monday, December 4, 2017 and Tuesday, December 5, 2017. She was then in the hospital from Wednesday, December 6, 2017 until Tuesday, December 12, 2017.

Claimant's administrative records establish that she was paid partial unemployment insurance benefits for the week ending December 9, 2017. There has been no initial determination regarding whether claimant has been overpaid unemployment insurance benefits for the week ending December 9, 2017 due to her not being able to and available for work that week. The question of whether the claimant is overpaid benefits for the one-week ending December 9, 2017 will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has not established a good cause reason for having failed to report as directed on December 21, 2017. However, she did report to IWD on December 27, 2017. Benefits are allowed once claimant reported. Further, claimant was not able to and available for work the one-week period ending December 9, 2017.

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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

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

Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

(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 in the individual's account at a financial institution or on a selected debit card.

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

(3) 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.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. Claimant was not able to and available for work the benefit week ending December 9, 2017 due to working full-time (Monday and Tuesday) and being in the hospital (Wednesday through Saturday).

Claimant could have retrieved her mail by getting a new mailbox key prior to her going to the hospital, but chose not to do so. The notice was mailed to claimant's last known address of record and claimant's non-receipt of the notice was not due to postal service delivery error or misinformation provided by IWD. As such, claimant did not establish a good cause reason for her failure to report as directed for the one-week period ending December 23, 2017. Claimant did report on December 27, 2017. As such, benefits are allowed effective December 24, 2017, so long as claimant is otherwise eligible.

DECISION:

The December 22, 2017 (reference 03) decision is modified in favor of appellant. Claimant was not able to and available for work from December 3, 2017 through December 9, 2017 and benefits are denied for the one-week period ending December 9, 2017. The claimant has not established a good cause reason for failing to report as directed on December 21, 2017, but did report on December 27, 2017. Benefits are denied for the one-week period beginning December 17, 2017 and ending December 23, 2017 due to claimant's failure to report. Benefits are allowed effective December 24, 2017, provided the claimant is otherwise eligible.

REMAND: The overpayment issue delineated in the findings of fact with regard to the one-week period ending December 9, 2017 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial determination.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs