

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DARCY J TECHEN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 15A-UI-08803-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/21/14
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.2(1)e – Failure to Report

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 29, 2015, reference 06, decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was held on August 27, 2015. Claimant participated. Official notice was taken of agency records including the notice of interview that was mailed to the claimant on July 21, 2015.

ISSUE:

The issue is whether failed to report to Iowa Workforce Development (IWD) as directed.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On July 21, 2015, a notice was mailed to the claimant to tell her to be available for a call from IWD about her availability for work beginning on May 13, 2015. The claimant had undergone a surgery that was of a personal nature but it did not stop her from working. Her employer knew she was going to have surgery at that point, but they claimant was laid off due to lack of work. If the claimant had been called back to work during that time period she could have worked. The claimant did not quit the employment and since being called back to work she has returned and performed all assigned work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established a good-cause reason for having failed to report as directed.

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 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.

Iowa Admin. Code r. 871-24.6 provides:

Profiling for reemployment services.

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

(2) 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.

(3) Reemployment services 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.

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.

b. Reserved.

This rule is intended to implement Iowa Code § 96.4(7).

Non-receipt of the notice is a good-cause reason for a failure to report as directed. Benefits are allowed.

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", unnumbered paragraph 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".

The claimant was physically able to and available for work each week that she claimed benefits even when she had surgery. The claimant was able to and available for work for effective May 10, 2015.

DECISION:

The July 29, 2015, reference 06, decision is reversed. The claimant did not fail to report as directed. Benefits are allowed effective May 10, 2015.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css