

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

MELISSA L WAITE
Claimant

APPEAL 22A-UI-15597-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/24/22
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Able to and Available for work
Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report
Iowa Code § 96.6 – Filing – Determination – Appeal
Iowa Admin. Code r. 871-24.3 – Social Security Number Needed for Filing

STATEMENT OF THE CASE:

Melissa L. Waite, the claimant/appellant, filed an appeal from the Iowa Workforce Development (IWD) July 28, 2022 (reference 01) unemployment insurance (UI) decision that allowed benefits as of July 24, 2022, because Ms. Waite was disqualified from receiving benefits because she did not provide proof of his identity but later provided proof of her identity. The parties were properly notified of the hearing. A telephone hearing was held on August 22, 2022. Ms. Waite participated personally. The department did not participate in the hearing. The administrative law judge took official notice of the administrative record. Department's Exhibit 1 was admitted as evidence.

ISSUE:

Is Ms. Waite able to and available for work?
Did Ms. Waite fail to report as directed by the department?
Did Ms. Waite fail to provide verification identification?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Waite filed an initial claim effective April 24, 2022. Ms. Waite saw an alert telling her that her identity had not been verified when she filed her initial claim. Ms. Waite attempted to email her identity verification documents to IWD, but the file was too big.

On May 2, 2022, IWD mailed Ms. Waite a letter telling her that the department was not able to verify her identity and telling her that her benefits may be delayed or denied if she did not provide proof of his identity by May 8, 2022. If the date falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. May 8, 2022 was a Sunday; therefore, the deadline was extended to Monday, May 9, 2022. Ms. Waite did not receive the letter. On May 13, Ms. Waite called the IWD Ottumwa office to inquire about her UI claim. Ms.

Waite's claim was still locked based on lack of identity verification. The IWD representative told Ms. Waite to email her identity verification documents to the representative. Ms. Waite did so that day, and the representative responded to Ms. Waite that IWD would review the documents.

Ms. Waite reopened her claim on June 26, 2022. Ms. Waite does not recall seeing an alert telling her that her identity had not been verified when she reopened her claim. At some point in July Ms. Waite noticed that she was not getting UI benefits. Ms. Waite called IWD on, or about, July 26, to ask why. The representative told Ms. Waite that her identity had not been verified. Ms. Waite sent IWD identity verification documents again on July 29. IWD sent Ms. Waite an email confirming receipt of her documents.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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 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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

Iowa Admin. Code r. 871-24.3 provides:

A claim will not become valid until the identity of the claimant has been verified by the department.

(1) Upon the filing of a claim, notification shall be provided to the claimant if the claimant's identity was not verified.

(2) If the agency is unable to verify the claimant's identity in the claim application, the claimant must provide approved documents. Approved documents must include at least one document containing a social security number. The department shall determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.

(3) The claimant's identity will not be considered verified until approved documents have been provided. The claim shall remain locked from issuance of benefits until the claimant has provided the approved documents to verify identity.

(4) After filing a claim application, the claimant shall not be eligible for benefits for any week until approved documents are provided to verify identity.

(5) Approved documents must be provided or postmarked by Saturday at 11:59 p.m. of the week in which the approved documentation is due, and the claim shall be unlocked for all weeks following the most recent effective date of the claim application.

(6) If required documents are provided in any subsequent weeks following the due date, the claimant shall be eligible, provided there are no other outstanding issues with the claim, as of the Sunday of the week the claimant's identity was verified.

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.

In this case, Ms. Waite was aware that her identity needed to be verified because she saw the alert when she filed her initial claim during the week of April 24-30, 2022. Ms. Waite did not receive the May 2, 2022 letter from IWD so she did not know about the May 9, 2022 deadline. Ms. Waite provided the department with identity verification documents on May 13, 2022, but she has not established good cause for the delay between the week of April 24-30, 2022 and when she submitted her documents. Therefore, benefits are allowed as of May 8, 2022, the week Ms. Waite verified her identity, provided she is otherwise eligible.

DECISION:

The July 28, 2022 (reference 01) decision is MODIFIED IN FAVOR OF THE APPELLANT, Ms. Waite. Ms. Waite provided proof of her identity on May 13, 2022. Benefits are allowed as of May 8, 2022, provided she is otherwise eligible.



Daniel Zeno
Administrative Law Judge

September 30, 2022
Decision Dated and Mailed

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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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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 adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.