

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ENID PORTO BRACERO
Claimant

APPEAL 17A-UI-05533-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/12/17
Claimant: Appellant (2)

Iowa Code § 96.6(2) – Timeliness of Appeal
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:

Enid Porto Bracero (claimant) filed an appeal from the May 24, 2017, reference 05, unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was held on June 12, 2017. The claimant participated. Spanish interpretation was provided by Christina (employee number 10214) from CTS Language Link. Department's Exhibits D1 and D2 were received.

ISSUES:

Is the appeal timely?
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: On May 9, 2017, a notice was mailed to the claimant to be available for a fact-finding interview on May 18, 2017 about a pension payment. She was not available because she did not receive the notice. On May 19, 2017, a request for additional information was mailed to the claimant's address and requested a response before 3:30 p.m. on May 24, 2017. The claimant received the letter at 4:35 p.m. on May 24, 2017. The following day, she went to her local office and filed an appeal to the failure to report decision issued on May 24, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely and she has established a good cause reason for having failed to report as directed. Benefits are allowed, if she is otherwise eligible.

An unemployment insurance decision becomes final if an appeal is not filed within ten days of the date of the decision. Iowa Code § 96.6(2). The unemployment insurance decision denying

the claimant benefits that is the subject of this appeal is dated May 24, 2017 and has an appeal deadline of June 3, 2017. The claimant filed her appeal on May 25, 2017. The claimant's appeal is timely and the administrative law judge has jurisdiction to hear and decide the issues presented in the appeal.

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 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.

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 account at a financial institution 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. 871-24.23(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.

Since she did not receive the notice for the fact-finding interview, the claimant has established a good cause reason for failing to report as directed on May 18, 2017. Additionally, the claimant did not receive the request for additional information until after the deadline in the letter had

passed. She reported the day after to address the issue. The claimant reported within a reasonable time after she had notice additional information was requested. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The May 24, 2017, reference 05, unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. Benefits are allowed effective May 14, 2017, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn