

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BERNARD PENELTON
Claimant

APPEAL 19A-UI-03966-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/17/19
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
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:

On May 14, 2019, the claimant filed an appeal from the May 10, 2019, (reference 10) unemployment insurance decision that denied benefits based on his failure to report as directed. The claimant was properly notified about the hearing. A telephone hearing was held on June 7, 2019. Claimant participated and testified. Claimant's Exhibit A was received into evidence.

ISSUE:

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: In April 2019 claimant had hernia surgery. Claimant was completely restricted from working from April 16, 2019 until May 20, 2019. Claimant was released to return to work without restriction effective May 20, 2019. (Exhibit A). Claimant reported that he was not able to and available for work when making his weekly continued claims. Based on his report, fact-finding interviews were scheduled. During the first fact-finding interview, the Iowa Workforce Development representative advised claimant that the interviews would continue to be scheduled as long as he continued to file weekly continued claims and was not able to work. Claimant understood he was restricted from working and therefore did not attend a second fact-finding interview on the issue. That interview was scheduled for May 9, 2019 at 10:40 a.m. Once claimant was released to return to work, he filed his appeals and submitted documentation showing he was released to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did fail to report as directed, but reported effective May 14, 2019.

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 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 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.

Here, claimant did fail to report as directed for the May 9, 2019 fact-finding interview, but has reported as of May 14, 2019, when he filed his appeal.

DECISION:

The May 10, 2019, (reference 10) unemployment insurance decision is modified in favor of the claimant. The claimant failed to report as directed, but has reported effective May 14, 2019. Benefits are allowed effective May 12, 2019, provided he is otherwise eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs