

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMY L WEILER
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL NO. 23A-UI-10539-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/01/23
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available, Work Search Warning

STATEMENT OF THE CASE:

On November 9, 2023, Amy Weiler (claimant) filed a timely appeal from the November 2, 2023 (reference 01) decision allowed benefits, provided the claimant was otherwise eligible, but that reminded the claimant she was required to engage in four reemployment activities, including three job applications, each benefit week. The decision warned the claimant could be disqualified for benefits for future weeks in which the claimant did not meet the work search requirement. The decision cited the claim for the week ending October 28, 2023 as the basis for the work search warning decision. After due notice was issued, a hearing was held on December 12, 2023. Claimant participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, WAGEA, and IowaWORKS.gov.

ISSUES:

Whether the claimant was able to work and available for work during the week that ended October 28, 2023.

Whether the claimant engaged in an active and earnest search for new employment during the week that ended October 28, 2023.

Whether the claimant met the work search/reemployment activities requirements during the week that ended October 28, 2023.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Amy Weiler (claimant) established an original claim for benefits that was effective October 1, 2023. At the time, Ms. Weiler made her initial application for benefits she would have encountered a confirmation page that included guidance regarding the weekly work search requirements, and the weekly claim reporting steps and requirements.

After Ms. Weiler established her claim for benefits, she made weekly claims for each of the seven weeks between October 1, 2023 and November 18, 2023. By the time Ms. Weiler made her weekly claim for the week ending October 21, 2023, she demonstrated the ability to

independently input her work search information onto the IowaWORKS.gov database, the ability to certify her work search information through that same database, and her ability to make weekly claims through the weekly claim reporting system.

During the week of October 22-28, 2023, Ms. Weiler applied for four jobs. All four jobs were with Transamerica, an insurance and finance company. Ms. Weiler lacked the necessary qualifications for three of the four jobs for which she applied. Ms. Weiler has a Bachelor of Arts degree with a major in English and is working on an online Master of Arts degree in library science. Ms. Weiler's background may have qualified her for the Transamerica customer care position she applied for. But Ms. Weiler did not have the requisite business or academic background for the Case Manager (annuities), New Business Representative (life insurance), or Financial Analyst positions she applied for. Ms. Weiler knew or should have known she was unqualified for such positions. Ms. Weiler entered partial job contact information into the IowaWORKS.gov database regarding the four applications.

Ms. Weiler did not certify her work search information for the week that ended October 28, 2023 through the IowaWORKS.gov website.

Because Ms. Weiler did not certify her work search information via IowaWORKS.gov, the weekly claim reporting system registered zero job contacts when Ms. Weiler made her weekly claim for the week ending October 28, 2023. This prompted the November 2, 2023 (reference 01) work search warning decision from which Ms. Weiler appeals in the present matter.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor

market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

A claimant must make application with employers that may reasonably be expected to have openings suitable to the claimant. See Iowa Admin. Code rule 871-24.22(3)(a)(1). That also means the claimant must apply for jobs for which a reasonable person would deem the claimant qualified.

Iowa Admin. Code r. 871-24.23(27) and (28) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

At the time the claimant established the original claim for benefits, the application process required the claimant acknowledge an obligation to read, know and follow the information contained in the online Unemployment Insurance Claimant Handbook. The portion of the handbook regarding Continued Eligibility begins with the following notice:

NOTICE: YOU ARE REQUIRED TO CONDUCT FOUR (4) REEMPLOYMENT ACTIVITIES EACH WEEK. THREE (3) OF THOSE REEMPLOYMENT ACTIVITIES ARE REQUIRED TO BE JOB APPLICATIONS. YOU ARE REQUIRED TO CREATE AN IOWAWORKS PROFILE AND CERTIFY YOUR REEMPLOYMENT ACTIVITIES. YOU WILL UTILIZE IOWAWORKS TO CERTIFY YOUR REEMPLOYMENT ACTIVITIES. YOU ARE REQUIRED TO CERTIFY YOUR REEMPLOYMENT ACTIVITIES PRIOR TO FILING YOUR WEEKLY CLAIM.

The confirmation page at the end of the initial application process provided similar information.

The work search warning regarding the claim for the week that ended October 28, 2023 was warranted. The claimant's four applications were all with the same employer and included applications for three jobs for which the claimant knew or should have known she was unqualified. The claimant failed to demonstrate earnest search for new employment. In addition, the claimant was by then familiar with the IowaWORKS.gov website reporting and certification requirements but entered incomplete work search information and then failed to certify her work search information for the week ending October 28, 2023. The work search warning remains in effect.

DECISION:

The November 2, 2023 (reference 01) work search warning decision is AFFIRMED. For each week of the claim, the claimant is required to demonstrate an active and earnest search for new employment and to conduct four (4) reemployment activities each week. Three (3) of those reemployment activities are required to be job applications. The claimant is required to enter complete work search information in the IowaWORKS.gov website and to certify her reemployment activities via IowaWORKS.gov prior to filing her weekly claim. The claimant may be disqualified for benefits for any week in which she does not meet the reemployment and/or weekly claim reporting requirements.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in black ink on a light gray background.

James E. Timberland
Administrative Law Judge

December 13, 2023
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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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>.

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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.