

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**MAYZE ESQUIVEL**

Claimant

**APPEAL NO: 13O-UI-06471-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/25/12**

**Claimant: Appellant (2)**

Iowa Code § 96.4-3 - Able and Available for Work

Iowa Code § 96.6-2 - Timeliness of Appeal

**STATEMENT OF THE CASE:**

Mayze Esquivel (claimant) appealed an unemployment insurance decision dated March 4, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she failed to report to her local Workforce Development Center. An initial hearing was scheduled in this matter for April 18, 2013 but the claimant was not available and the disqualification was upheld in appeal number 13A-UI-03419-BT. The claimant appealed the decision indicating she did not participate because she went into labor. The Employment Appeal Board remanded for a new hearing in an order dated May 30, 2013. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on July 10, 2013. The claimant participated in the hearing. Exhibit D-1 was admitted into evidence. The timeliness of the appeal issue was inadvertently left off the hearing notice. The claimant waived her right to formal notice of the timeliness issue so it could be addressed in the hearing today.

**ISSUE:**

The issue is whether the claimant's appeal is timely, and if so, whether she failed to report to as directed.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: A disqualification decision was mailed to the claimant's last-known address of record on March 4, 2013. The claimant testified she received the decision shortly thereafter. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by March 14, 2013. The appeal was not filed until March 22, 2013, which is after the date noticed on the disqualification decision. The claimant subsequently testified she received the disqualification decision late.

The claimant was mailed a notice to register for work on or before February 25, 2013 but failed to do so. She testified she never received the notice.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not receive the decision within the ten-day time period allowed for the appeal. She did file an appeal immediately upon receiving information she had been disqualified. Therefore, the appeal shall be accepted as timely.

The substantive issue to be determined in this case is whether the claimant failed to report as directed. 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.

871 IAC 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.

871 IAC 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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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.

The administrative law judge is convinced that the claimant never received the Notice to Report and she cannot be disqualified for her failure to report when she never received the Notice. Benefits are allowed.

**DECISION:**

The claimant's appeal was timely. The unemployment insurance decision dated March 4, 2013, reference 01, is reversed. The claimant did not fail to report as directed. Benefits are allowed effective February 24, 2013, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css