

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AHMED A MOHAMMED
Claimant

APPEAL NO: 14A-UI-09569-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/22/14

Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Ahmed A. Mohammed (claimant) appealed a representative's September 5, 2014 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits by not being able and available for work, through not showing that he was legally authorized to work in the United States. After hearing notices were mailed to the claimant's last-known address of record, a telephone hearing was held on October 7, 2014. This appeal was consolidated for hearing with one related appeal, 14A-UI-09570-DT. The claimant participated in the hearing. Magdy Salama served as interpreter. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

FINDINGS OF FACT:

The claimant is not a citizen of the United States. He established an unemployment insurance benefit year effective June 22, 2014. On July 1, 2014 Agency representative Phillip Peacock sent a letter to the claimant which specified:

In order to verify that you are a legal resident and authorized to work in the United States, we will need copies of your employment authorization documentation. You should send a photocopy of the documentation (both front and back) to me, to arrive in my office by 07-14-14. You may go to a Workforce Development office to make the photocopies.
Please do not send copies by fax.

You should return the documents with this letter to the address shown below my signature. The address given was: Phillip Peacock, Bilingual Workforce Advisor, Investigation and Recovery Bureau, Iowa Workforce Development, 150 Des Moines St., Des Moines, Iowa 50309.

The claimant did not receive this letter from Mr. Peacock, and so did not respond. When the claimant did not respond, the decision was issued finding that the claimant had not proven that he was authorized to work and that he was therefore not able and available for work or eligible to receive benefits.

The claimant did receive the disqualification decision (and the resulting overpayment decision) and did appeal the decision on September 15. Sometime between that date and the date of the hearing on October 7 he did bring work authorization documents to a local Agency office; he was told to wait and talk to the judge on October 7. Copies of the documents were not forwarded to the judge, however, and as of the date of the hearing it does not appear that copies of the documents were internally forwarded to Mr. Peacock, who is the person who will need to do the verification of the documents.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able and available for work. Iowa Code § 96.4-3. This necessarily requires that the claimant be authorized to work, either by being a citizen of the United States, or by being an alien who is authorized to work. Iowa Code § 96.5-10; Rule 871 IAC 24.60(4).

Rule 871 IAC 24.60(2) provides:

Alien. Any person who is not a citizen or a national of the United States. A national is defined as a person who lives in mandates or trust territories administered by the United States and owes permanent allegiance to the United States. An alien is a person owing allegiance to another country or government.

(2) It is required that information designed to identify illegal nonresident aliens shall be requested of all claimants for benefits. This shall be accomplished by asking each claimant at the time the individual establishes a benefit year whether or not the individual is a citizen.

a. If the response is "yes," no further proof is necessary and the claimant's records are to be marked accordingly.

b. If the answer is "no," the claimant shall be requested to present documentary proof of legal residency. Any individual who does not show proof of legal residency at the time it is requested shall be disqualified from receiving benefits until such time as the required proof of the individual's status is brought to the local office. The principal documents showing legal entry for permanent residency are the Form I-94 "Arrival and Departure Record" and the Forms I-151 and I-551 "Alien Registration Receipt Card." These forms are issued by the immigration and naturalization service and should be accepted unless the proof is clearly faulty or there are reasons to doubt their authenticity. An individual will be required to provide the individual's alien registration number at the time of claim filing.

It may be that the claimant does have the proper documentation but has as yet not provided them to the representative within the Agency who must verify that documentation.

The claimant is instructed that if he does have the proper documentation he must:

Send a photocopy of the documentation (both front and back) to:

**PHILLIP PEACOCK
BILINGUAL WORKFORCE ADVISOR
INVESTIGATION & RECOVERY BUREAU
IOWA WORKFORCE DEVELOPMENT
150 DES MOINES ST
DES MOINES IA 50309**

You may go to a Workforce Development office to make the photocopies, but **please do not send copies by fax.**

If the documents are provided and verified, the Agency representative could be in a position to issue new decisions regarding the claimant's eligibility and overpayment.

DECISION:

The representative's September 5, 2014 decision (reference 01) is affirmed. The claimant has not yet demonstrated he is and was able and available for work by being authorized to work in the United States. Until or unless he does so, he is not qualified to receive unemployment insurance benefits. If he has the necessary documentation, he should follow the instructions set out above to submit them for verification to Agency representative Phillip Peacock.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs