

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

AUDRY K ROBSON
Claimant

APPEAL NO. 21A-UI-11511-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/21/21
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Work Search Warning

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 12, 2021, reference 01, decision that held the claimant failed to make two *in-person* job contacts per claim week, that reminded the claimant of the work search requirement, and that warned the claimant could be disqualified for benefits for future weeks in which she did not meet the work search requirement. A hearing was set for July 12, 2021 at 10:00 a.m. and the claimant was duly notified by notice mailed on June 14, 2021. The claimant did not provide a telephone number for the hearing and did not participate. Upon reviewing the Agency administrative records, the administrative law judge concluded that a decision favorable to the claimant could be entered based on those records and without need for a hearing.

ISSUES:

Whether the claimant met the work search requirement during the benefits week that ended March 27, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a new original claim and new benefit year that was effective March 21, 2021. Information the claimant provided in her application prompted the Iowa Workforce Development computer system to categorize the claimant as a group 2 claimant, a claimant who is required to make at least two *in-person* job contacts each claim week. During the week that ended March 27, 2021, the claimant made at least two employer contacts. The claimant reported two job contacts when she made her weekly claim for the week that ended March 27, 2021, but also reported that one or both contacts were not *in-person*. Because the claimant had been categorized as a group 2 claim, the report that the job contacts were not *in-person* prompted the work search warning from which the claimant appeals in the present matter. On May 24, 2021, an IWD representative re-categorized the claimant as a group 6 claimant, a claimant who is required to make at least two employer contacts each claim week but who is not required to make *in-person* job contacts. The claimant currently appears in the Agency's records as a group 6 claimant.

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.

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

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

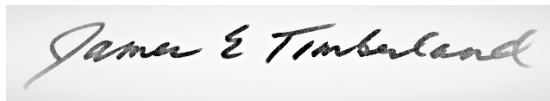
(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such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

The claimant met the work search requirement during the week that ended March 27, 2021. The claimant was erroneously categorized as a group 2 claimant, a claimant required to make in-person job contacts. IWD has removed that group category from the applicable Iowa Administrative Code rule in light of growing reliance on the Internet for recruiting, screening, and searching for employment. When the erroneous categorization came to the Agency's attention,

the Agency amended the group classification to group 6, which removed the *in-person* aspect of the work search requirement. The claimant met the work search requirement during the week that ended March 27, 2021 by making and reporting at least two job contacts. The claimant is eligible for benefits for the week that ended March 27, 2020, provided she meets all other eligibility requirements. The work search warning is withdrawn.

DECISION:

The April 12, 2021, reference 01, decision is reversed. The claimant met the work search requirement during the week that ended March 27, 2021. The claimant is eligible for benefits for the week that ended March 27, 2020, provided she meets all other eligibility requirements. The work search warning is withdrawn.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

July 21, 2021
Decision Dated and Mailed

jet/scn