

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 06A-UI-00057-DT  
OC: 10/30/05 R: 01  
Claimant: Appellant (4)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

871 IAC 24.2-1-e – Failure to Report

STATEMENT OF THE CASE:

Michael R. McClain (claimant) appealed a representative's December 16, 2005 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits because he had not responded to an Agency notice to respond to an issue relating to his eligibility, specifically registering for work. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on January 19, 2006. The claimant participated in the hearing. 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.

#### FINDINGS OF FACT:

The claimant established an initial claim for unemployment insurance benefits effective October 30, 2005. On November 21, 2005, the Agency sent the claimant a notice that he was to report to a local Agency office to register for work at 8:30 a.m. on December 5, 2005. No evidence was provided to rebut the presumption that the claimant received the notice within a few days after mailing. When the claimant did not report as directed, a second notice was sent to the claimant on December 5, 2005, again directing him to report to the local Agency office to register for work at 8:30 a.m. on December 14, 2005. No evidence was provided to rebut the presumption that the claimant received the second notice within a few days after mailing.

When the claimant did report and register as of December 14, 2005, the representative's decision disqualifying him from benefits was issued and mailed on December 16, 2005. The claimant received that decision and opened it. Upon reading the decision, he went back through his unopened mail and found at least one of the previously sent notices which he had received but had failed to open and read.

On January 17, 2006, the claimant reported to a local Agency office and registered for work.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant failed to report and register for work as required to be eligible for unemployment insurance benefits.

Iowa Code section 96.4-1 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

1. The individual has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the department may prescribe. The provisions of this subsection shall be waived if the individual is deemed temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c".

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.

While the claimant did not read his mail in a timely manner, he was on notice of the requirement to report and register for work. He did not comply until January 17, 2005. Benefits are denied for the period of December 11, 2005 through January 15, 2006. Benefits are allowed as of January 16, 2006, if the claimant is otherwise eligible.

**DECISION:**

The representative's December 16, 2005 decision (reference 02) is modified in favor of the claimant. The claimant failed to report to register as directed until January 17, 2006. Benefits are denied from December 11, 2005 through January 15, 2006. The claimant is qualified to receive unemployment insurance benefits as of January 16, 2006, if he is otherwise eligible.

ld/kjw