

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: 04A-UI-00967-B4T
OC: 01/04/04 R: 01
Claimant: Appellant (1)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 871 IAC 24.2(1)e – Whether the claimant failed to report as directed

STATEMENT OF THE CASE:

An appeal was filed on behalf of the claimant from an unemployment insurance decision dated January 22, 2004, reference 01, that held, in effect, Juan Sanchez was not eligible to receive unemployment insurance benefits. The records indicated that the claimant was mailed a notice to report to a local Workforce Development Center and failed to report as required. The claimant did not meet the availability requirements of the law and benefits were denied effective January 11, 2004.

A telephone conference hearing was initially scheduled to be held on February 16, 2004. It was determined that the claimant could not speak English adequately to hold a hearing and an accommodation was made to hold the hearing on February 17, 2003 provided the claimant would waive notice of the hearing and consent to the hearing being held. Guadalupe McCarney interpreter was contacted and spoke with the claimant. The claimant agreed to be available on the February 17, but was not available at the time of the scheduled hearing.

Subsequently, a new hearing was scheduled on March 9, 2004 pursuant to due notice. Juan Sanchez responded once again to the notice of hearing mailed to him by the Appeals Section by providing a telephone number of where he could be contacted. Initially, Rosie Paramo-Ricoy, an interpreter was contacted. Rosie Paramo-Ricoy, interpreter participated and spoke with a female who answered the phone at the number provided by Juan Sanchez. The claimant was said to be at work and not available to participate in the hearing once again.

There was no hearing held in this matter. Official notice is being taken of the decision under consideration dated January 22, 2004, reference 01, together with the pages attached thereto (4 pages in all).

FINDINGS OF FACT:

The administrative law judge, having examined the entire record in this matter, finds that: Juan Sanchez filed an initial claim for benefits having an effective date of January 4, 2004. Subsequently, the claimant filed a claim for benefits for the benefit week ending December 27, 2003. The records indicate the claimant refused to accept an offer of work during that week. A notice was then sent to the claimant, Juan Sanchez, which scheduled a telephone interview for January 15, 2004. The claimant's telephone was not answered on the date required. A message was left and someone called later on to say that the claimant was not at that telephone.

The instant decision under consideration was dated and mailed to the claimant on January 22, 2004. Subsequently, hearings were scheduled to be held concerning the issue as to whether or not the claimant met the availability requirements of the law. The claimant was not available to participate in any of the hearings scheduled even though interpreters had been obtained and were available for each hearing.

The claimant has failed to participate in the hearing scheduled and establish justifiable reason why he should be determined available for work after failing to report to the local Workforce Development Center.

REASONING AND CONCLUSIONS OF LAW:

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 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 evidence in the record is clear that the claimant failed to respond to the Unemployment Insurance Notice to Report mailed to him on January 6, 2004. A reasonable effort was made by the fact finder to contact the claimant to no avail. In addition, numerous hearing were scheduled to be held before the administrative law judge. The claimant responded to the notices of hearings mailed to him and agreed to participate but was never available at the time of the scheduled hearing. The administrative law judge concludes that Juan Sanchez failed to report to a local Workforce Development Office in response to an Unemployment Insurance Notice to Report and benefits are denied effective January 11, 2004 until such time as he has requalified under the provisions of the Iowa Employment Security Law.

DECISION:

The unemployment insurance decision dated January 22, 2004, reference 01, is affirmed. The claimant is not entitled to receive unemployment insurance benefits at this time.

kjf/kjf