

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLOS ALBERTO C COELHO
Claimant

APPEAL NO: 20R-UI-03451-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 01/26/20
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.2(1)e – Failure to Report
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Recovery of Overpayment of Federal Benefit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a decision dated February 24, 2020, reference 02, that denied benefits effective February 16, 2020, for failure to report for reemployment services. After due notice was issued, a hearing was held by telephone conference call before an Administrative Law Judge on May 18, 2020. Claimant did participate. Claimant waived time and notice and agreed to discuss the issues of state and federal benefits.

ISSUES:

Whether claimant failed to report as directed?

Whether claimant is able and available for work?

Was the claimant overpaid state benefits?

Was the claimant overpaid Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant fell ill during the Fall of 2019. Claimant was removed from his position with Cognizant Technologies on September 23, 2019. Claimant was unable to work from this date until he filed his original claim for unemployment on January 26, 2020. After that date, claimant has consistently been able to work, with the one day exception of the date of his fact finding interview when he was having a colonoscopy.

Claimant stated that he never received any information surrounding the contact he was requested to have with IWD about information needed on his filing. A look into documents sent in this matter does not reveal any document requesting claimant to be in contact with IWD over

and above the need to file weekly claims. Claimant stated he never received the fact finding decision in this matter that denied him benefits. He further stated that he filed an appeal in this matter after he'd called IWD to ask about the decision reached in his matter. The IWD representative did not tell claimant he needed to provide information surrounding his claim so claimant had not done so until the date of this hearing. During the hearing the administrative law judge instructed claimant to contact IWD and shared the number to call.

Claimant stated that he has contacted the local postmaster complaining of issues surrounding the receipt of mail since the Covid 19 began.

Claimant in this matter has received state benefits in the amount of \$1,443.00. Claimant has not received federal benefits in this matter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for having failed to report for reemployment services. Additionally, claimant has stated that he has been able and available for work since the date he filed his original claim in this matter. Claimant never received information asking for him to be in contact with IWD, therefore his not being in contact with IWD is excused.

Iowa Admin. Code r. 871-24.2(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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

Iowa Admin. Code r. 871-24.6(1-6) provides:

Reemployment services and eligibility assessment procedure.

(1) The department of workforce development will provide a program which consists of profiling claimants and providing reemployment services.

(1) Purpose.

a. Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

(3) Reemployment services and eligibility assessment may include, but are not limited to, the following:

- a. An assessment of the claimant's aptitude, work history, and interest.
- b. Employment counseling regarding reemployment approaches and plans.
- c. Job search assistance and job placement services.
- d. Labor market information.
- e. Job search workshops or job clubs and referrals to employers.
- f. Résumé preparation.
- g. Other similar services.

(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause..

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.

b. Reserved.

This rule is intended to implement Iowa Code section 96.4(7).

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

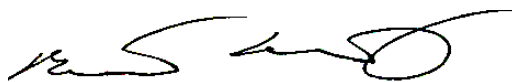
subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

In this matter, claimant has remained able and available for work since the February 24, 2020 date when he filed for unemployment. Claimant's failure to report to a department representative is seen to be with good cause as claimant did not receive documentation directing him to report, nor did he receive documentation of his unemployment decision which he could have used to immediately contact workforce development.

As claimant is entitled to receive benefits, claimant has not been overpaid benefits in this matter.

DECISION:

The decision of the representative dated February 24, 2020, reference 02, is reversed. Benefits shall be allowed effective February 16, 2020, if claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

May 20, 2020
Decision Dated and Mailed

bab/scn