

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KOUDZO A APETCHO**  
Claimant

**APPEAL NO. 14A-UI-05954-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/06/14  
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available  
871 IAC 24.2(1)e – Failure to Report

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 27, 2014, (reference 03) unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued a hearing was held on July 22, 2014. The claimant did participate with the assistance of French Interpreter Melissa Abraham.

**ISSUES:**

Did the claimant fail to report as directed?

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been told by his physician that he is not to work due to his neck condition. The claimant reported at hearing that he has severe pain whenever he stands.

The claimant was available when the fact finder indicated they would call him on May 16, 2014 but for some reason he did not receive the call.

**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 as directed.

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.

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 claimant did not receive the telephone call from the fact finder. Thus, he has established a good cause reason for failing to report as directed.

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

The claimant's physician has told him not to work due to a neck condition. The claimant has severe pain whenever standing. Under these conditions, it is impossible to determine that the claimant is able to and available for work. Accordingly, benefits are denied.

**DECISION:**

The May 27, 2014 (reference 03) decision is affirmed. The claimant did not fail to report as directed. The claimant is not able to work and available for work effective May 11, 2014. Benefits are denied.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/css