

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MILDRED E VAZQUEZ

Claimant

APPEAL NO. 10A-UI-09285-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01-31-10

Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 22, 2010, reference 03, decision that denied benefits due to the claimant's failure to report as directed. After due notice was issued, a hearing was held on August 28, 2010. The claimant did participate. Claimant's Exhibit A was entered and received into the record.

ISSUE:

Did the claimant fail to report as directed and is she able to and available for work?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On or about May 15, 2010, a letter of inquiry was mailed to the claimant to the claimant asking her to explain why she had indicated for the week ending May 15, 2010 that she was not available for work. The letter indicated that the claimant needed to respond to the inquiry by May 26, 2010 or face losing her unemployment insurance benefits. The claimant received the letter of inquiry before the deadline, but misplaced it or lost track of it. On June 20, 2010, the agency cut off the claimant's unemployment insurance benefits since she had not responded to the letter of inquiry.

From March through May 2010 the claimant was working part-time for the census. She was able to and available for full-time work during that period, as she never came close to working full-time for the census. For the week ending May 15, 2010, the claimant filed a weekly voice response claim and mistakenly pushed the button indicating she was not available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has not established a good-cause reason for having failed to report as directed but has established that she was able to 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 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".

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.

871 IAC 24.23(11) provides:

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

(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

Losing track of the time and misplacing agency correspondence are not good-cause reasons for failing to report as directed. However, the administrative law judge is persuaded that the claimant was able to and available for work from May 15, 2010 to date of hearing; thus, the

decision determining the client ineligible for benefits is reversed and benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The June 22, 2010, reference 03, decision is reversed. The claimant has established she was able to and available for work. Benefits are allowed effective May 15, 2010, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw