

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMIE M HADWIN
Claimant

APPEAL 20R-UI-01848-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWAWORKS

**OC: 10/27/19
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Available for work
Iowa Code § 96.4(7) – Reemployment services
Iowa Admin. Code r. 871-24.6 – Profiling for reemployment services
Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report

STATEMENT OF THE CASE:

On January 16, 2020, Jamie M. Hadwin (claimant/appellant) filed an appeal from the January 13, 2020, reference 04, unemployment insurance decision that determined she was not eligible for unemployment benefits effective January 5, 2020 because she failed to report for a reemployment services appointment. Hearing notices were sent to both parties for a hearing to be held on February 3, 2020. The claimant did not respond to the hearing notice and a default decision was issued. The claimant appealed that decision to the Employment Appeal Board who remanded the appeal for a new hearing. Hearing notices were again sent to the parties.

A telephone hearing was held on March 19, 2020. The claimant participated personally. Elmarie Schilling, Career Planner, participated on behalf of IowaWORKS. The Agency's Exhibits 1 through 3 were admitted into the record. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was the claimant available for work effective January 5, 2020?
Did the claimant fail to report as directed by a department representative to participate in a reemployment services appointment or offer justifiable cause for their failure to do so?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits effective October 27, 2019. She was selected to participate in a reemployment services and eligibility assessment on December 18, 2019. The claimant had not previously participated in this appointment during this claim year.

The claimant reported for the assessment and met with Elmarie Schilling, Career Planner. She entered into a RESEA Agreement. (Exhibit 1.) As part of the agreement, she agreed to attend the Create a Great Resume seminar to be held on January 9, 2020 at 9:00 a.m. The agreement

also put the claimant on notice that failure to attend would result in denial of unemployment insurance benefits. Additionally, if she needed to miss the seminar, she was required to contact Schilling prior to the date of the seminar. The claimant was given a folder containing this information.

The claimant was dealing with some personal issues at this time and lost the folder shortly after the meeting. She remembered she had a seminar on January 9 but could not remember the time. She attempted to contact Schilling at some point on January 9 after 9:00 a.m., which was after the seminar had started. The claimant did not successfully reach Schilling until after she received the Unemployment Insurance Decision dated January 13, reference 04, that denied her benefits. (Exhibit 2.) Schilling allowed her to select a different seminar that was being held earlier in lieu of the originally agreed upon seminar. The claimant attended that seminar and was allowed benefits effective January 19. (Exhibit 3.)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not provide justifiable cause for the failure to report as directed to participate in a reemployment services appointment. Benefits are denied effective January 5 through January 18, 2020.

Iowa Code § 96.4(7) provides:

Required findings.

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

(7) The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

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.

(2) 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.** [Emphasis added.]

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 Admin. Code r. 871-24.2(1)e provides:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

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.

Each week a claimant files a claim for benefits she must be able to and available for work. Iowa Code § 96.4(3). To maintain continued eligibility, a claimant shall report as directed by an authorized representative. 871 IAC 24.2(1)e. A claimant who fails to report as directed by notice mailed to the claimant is deemed unavailable for work. Iowa Admin. Code r. 24.23(11).

If the department identifies a claimant who is likely to exhaust benefits, in order to be eligible for weekly benefits, a claimant must report as directed to participate in reemployment services. Iowa Code § 96.4(7). Unemployment insurance rules require a claimant to 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. Iowa Admin. Code r. 871-24.6(6). 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. *Id.* Justifiable cause for failure to participate includes 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. *Id.* The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause. *Id.* Failure to report for the appointment, failure to contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause for missing the appointment, or failure to have justifiable cause for failing to report for the appointment means the claimant has failed to meet the availability requirements of the law. *Id.*

The claimant cannot meet the burden of proof to establish that she was available because she failed to report as directed by an agency representative. The claimant was on notice that she needed to attend the seminar and contact Schilling if she was unable to attend. The claimant did not notify Schilling prior to the seminar that she would not be attending and failed to report as directed. Additionally, she failed to present justifiable cause for her failure to report as directed for a reemployment services appointment. Benefits are denied.

DECISION:

The January 13, 2020, reference 04, unemployment insurance decision is affirmed. The claimant has not provided justifiable cause for having failed to report for a reemployment services appointment. Benefits are denied effective January 5 through January 18, 2020.



Stephanie R. Callahan
Administrative Law Judge

March 27, 2020
Decision Dated and Mailed