

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MACHUL D BOM
Claimant

APPEAL NO. 21A-UI-03504-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/03/21
Claimant: Appellant (2R)**

Iowa Code Section 96.4(3) – Work Search Warning

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 13, 2021, reference 03 work search warning/decision. The decision reminded the claimant that he was required to make at least two *in-person* job contacts during each week for which he claimed benefits. The decision stated that the claimant reported fewer than two *in-person* job contacts during the week that ended January 2021. The decision warned that the claimant could be disqualified for benefits for future weeks during which he made fewer than two *in-person* job contacts. A hearing was set for March 26, 2021 and the claimant was properly notified. Claimant and his counsel each registered a telephone number for the appeal hearing. Upon review of the Agency's administrative record, the administrative law judge concluded that a decision could be entered in favor of the claimant without need for an appeal hearing.

ISSUES:

Whether the claimant met the work search requirement during the week that ended January 9, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for benefits that was effective January 3, 2021 and made weekly claims that included a weekly claim for the week that ended January 9, 2020. The claimant reported two job contacts for that week, but indicated they were not *in-person* job contacts.

The claimant is coded in Iowa Workforce Development as a group 2 claimant, one who is required to make *in-person* job contacts.

REASONING AND CONCLUSIONS OF LAW:

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".

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.

Iowa Admin. Code r. 871-24.23(27) provides:

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

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

The claimant's two job contacts met the work search requirement during the week that ended January 9, 2020. The claimant was erroneously coded as a group 2 claimant, a claimant who is required to make *in-person* job contacts to meet the work search requirement. The error most likely arose from information provided by the claimant at the time he established his claim. IWD records reflect that the claimant was coded as a group 6 claimant during the previous claim year. The vast majority of claimants who have separated from employment are coded as group 6 claimants. Group 6 claimants are required to make at least two job contacts per week, but are not required to make *in-person* job contacts. IWD has steadily moved away from the requirement of *in-person* job contacts in light of the ubiquitous use of the Internet by employers and job seekers. The COVID-19 pandemic provides yet another reason to not require *in-person* job contacts.

The matter will be remanded to the Benefits Bureau for re-coding of the claimant as a group 6 claimant.

DECISION:

The January 13, 2021, reference 03 work search warning is reversed. The claimant's two job contacts met the work search requirement during the week that ended January 9, 2021.

The matter is **remanded** to the Benefits Bureau for re-coding of the claimant as a group 6 claimant.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

March 30, 2021
Decision Dated and Mailed

jet/scn