

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

JOSEPH N. MALFERO
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 23A-UI-05936-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/14/23
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Available for work
Iowa Admin. Code r. 871-24.2(1)(e) – Able & Available – Report as Directed by Department
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report
Iowa Admin. Code r. 871-24.22(2) – Able & Available – Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.3 – Able & Available – Identity Verification

STATEMENT OF THE CASE:

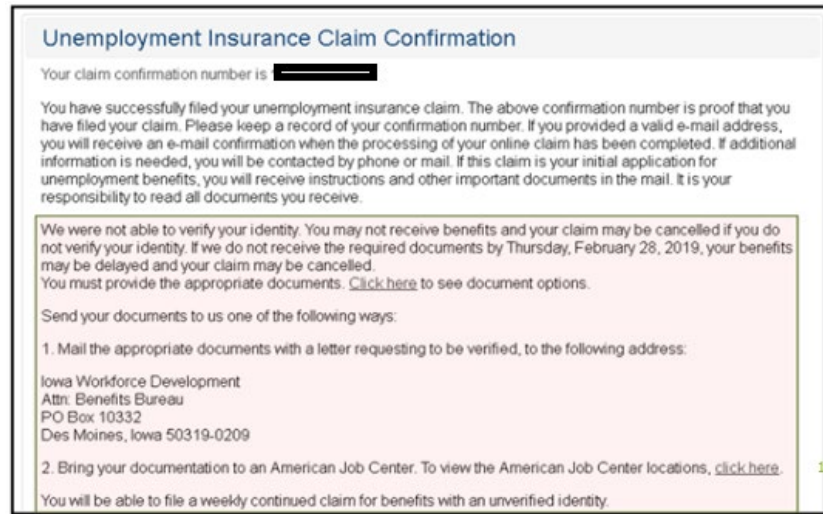
On June 9, 2023, the claimant filed an appeal from the June 7, 2023, (reference 02) unemployment insurance decision that allowed benefits effective June 4, 2023, based upon a determination that claimant initially failed to provide verification of his identity but subsequently did so. Claimant was notified of the hearing. A telephone hearing was held on June 29, 2023. The claimant participated. Administrative notice was taken of claimant's unemployment insurance benefits records including the May 22, 2023 notice and claimant's identification documents.

ISSUES:

- I. Is the claimant able to and available for work?
- II. Did the claimant timely provide verification of his identity?
- III. Did the claimant fail to report as directed by a department representative?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits effective May 14, 2023. Claimant's wife assisted him in filing for benefits. Claimant was unable to verify his identity through the online verification process. Therefore, on the claim confirmation page, a notice appeared stating claimant was required to provide qualifying proof of identity to the agency by May 28, 2023, in order to prevent benefits from being delayed and the claim from being canceled. The notification would have looked similar to the graphic below:

A screenshot of a web page titled "Unemployment Insurance Claim Confirmation". The page has a light blue header with the title. Below the header, it says "Your claim confirmation number is" followed by a blacked-out box. The main body of the page is white with black text. It states: "You have successfully filed your unemployment insurance claim. The above confirmation number is proof that you have filed your claim. Please keep a record of your confirmation number. If you provided a valid e-mail address, you will receive an e-mail confirmation when the processing of your online claim has been completed. If additional information is needed, you will be contacted by phone or mail. If this claim is your initial application for unemployment benefits, you will receive instructions and other important documents in the mail. It is your responsibility to read all documents you receive." Below this is a pink rectangular box containing text: "We were not able to verify your identity. You may not receive benefits and your claim may be cancelled if you do not verify your identity. If we do not receive the required documents by Thursday, February 28, 2019, your benefits may be delayed and your claim may be cancelled. You must provide the appropriate documents. [Click here](#) to see document options." Below the pink box, it says "Send your documents to us one of the following ways:" followed by two numbered instructions. Instruction 1 says to mail documents to: Iowa Workforce Development, Attn: Benefits Bureau, PO Box 10332, Des Moines, Iowa 50319-0209. Instruction 2 says to bring documents to an American Job Center, with a link to view locations. At the bottom, it says "You will be able to file a weekly continued claim for benefits with an unverified identity." There is a small "13" in the bottom right corner of the pink box.

The only difference between the graphic above and the message claimant would have received is that claimant would have had until May 28, 2023, to provide the required documents.

Additionally, on May 22, 2023, the agency mailed claimant a letter also stating that if claimant was unable to provide proof of identity by May 28, 2023, "benefits may be delayed and ... claim may be canceled." Claimant did not receive this notice because he has not lived at the address the notice was mailed to for three or four years.

Claimant did not provide proof of identity until on or about June 6, 2023. Claimant did not receive any benefits for two or three weeks and he went to his local IowaWorks location to figure out why he was not receiving benefits. At that time he learned he needed to verify his identity. Claimant provided his driver's license and his social security card to verify his identity. The claimant's unemployment insurance claim was unlocked at that time. The same day, the agency issued a decision finding claimant eligible for benefits effective June 2, 2023, as the requested identity verification documents were provided.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant failed to provide timely verification of identity due to agency error. Benefits are allowed effective May 14, 2023.

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...

Iowa Admin. Code r. 871-24.3 provides:

A claim will not become valid until the identity of the claimant has been verified by the department.

- (1) Upon the filing of a claim, notification shall be provided to the claimant if the claimant's identity was not verified.
- (2) If the agency is unable to verify the claimant's identity in the claim application, the claimant must provide approved documents. Approved documents must include at least one document containing a social security number. The department shall determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.
- (3) The claimant's identity will not be considered verified until approved documents have been provided. The claim shall remain locked from issuance of benefits until the claimant has provided the approved documents to verify identity.
- (4) After filing a claim application, the claimant shall not be eligible for benefits for any week until approved documents are provided to verify identity.
- (5) Approved documents must be provided or postmarked by Saturday at 11:59 p.m. of the week in which the approved documentation is due, and the claim shall be unlocked for all weeks following the most recent effective date of the claim application.
- (6) If required documents are provided in any subsequent weeks following the due date, the claimant shall be eligible, provided there are no other outstanding issues with the claim, as of the Sunday of the week the claimant's identity was verified.

Iowa Admin. Code r. 871-24.23(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.

In this case, Iowa Workforce Development notified claimant that identity verification needed to be provided by May 28, 2023, in order to prevent benefits from delayed or the claim being cancelled. Claimant did not provide the requested documentation until June 6, 2023 because he did not receive the notice. Claimant's failure to provide the required documentation in a timely manner was due to agency error because they mailed the notice to the wrong address. As a result, benefits are allowed effective May 14, 2023, provided claimant is otherwise eligible.

DECISION:

The June 7, 2023 unemployment insurance decision is MODIFIED in favor of appellant. Claimant failed to provide proof of identity due to agency error. Benefits are allowed effective May 14, 2023, provided claimant is otherwise eligible.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive, flowing style.

Carly Smith
Administrative Law Judge

June 30, 2023
Decision Dated and Mailed

scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.