

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEAN W MILLER
Claimant

APPEAL NO. 14A-UI-00939-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/31/13
Claimant: Appellant (4)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Dean Miller filed a timely appeal from the January 15, 2014, reference 01, decision that denied benefits effective December 29, 2013 based on an agency conclusion that he did not meet the availability requirements of the law. An appeal hearing was set for February 28, 2014 and due notice was issued to Mr. Miller. Mr. Miller did not provide a telephone number for the hearing. Based upon the February 6, 2014, reference 04, decision entered by a Claims Deputy, a hearing is not necessary. The administrative law judge hereby takes official notice of the reference 01 and reference 04 decisions and the associated supporting documents contained in the agency's administrative file.

ISSUES:

Whether the claimant has been available for work since establishing his claim for benefits.

Whether the claimant failed to report to his local Workforce Development Center as directed by the agency.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On January 15, 2014, a Workforce Development Claims Deputy entered a January 15, 2014, reference 01, decision that denied benefits effective December 29, 2013 based on an agency conclusion that Dean Miller did not meet the availability requirements of the law. The decision that found Mr. Miller did not meet the availability requirement was based on an agency conclusion that Mr. Miller had failed to report as directed by the agency. The directive to report to the agency pertained to a need to address the impact of the claimant's IPERS pension benefits on his unemployment insurance benefit eligibility.

On February 6, 2014, a Claims Deputy entered a February 6, 2014, reference 04, decision that allowed benefits effective December 29, 2013, based on an agency conclusion that Mr. Miller did indeed meet the availability requirements of the law and had reported as directed by the agency to discuss the impact of his IPERS pension benefits on his unemployment insurance benefit eligibility.

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".

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.

Based on the February 6, 2014, reference 04, decision, the administrative law judge concludes that effective December 29, 2013, the claimant met the availability requirement and was eligible for benefits, provided he met all other eligibility requirements.

DECISION:

The Agency representative's January 15, 2014, reference 01, unemployment insurance decision is modified to reflect the February 6, 2014, reference 04, unemployment insurance decision. Effective December 29, 2013, the claimant met the availability requirement and was eligible for benefits, provided he met all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs