

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD J MEAD
Claimant

APPEAL NO: 14A-UI-06343-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/15/13
Claimant: Appellant (4/R)**

Iowa Code § 96.4(3) – Able to and Available for Work
871 IAC 26.14(7) – Request to Reopen Hearing

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 9, 2014 (reference 02) determination that denied him benefits as of June 1, 2014 because he did not participate in a scheduled June 6 phone interview. Prior to the July 11 hearing, the claimant did not contact the Appeals Bureau by calling or going online to provide the phone number he could be contacted at for the hearing.

The claimant called the Appeals Bureau on July 15 and requested the hearing be reopened. Based on the claimant's request to reopen the hearing, the administrative record, and the law, the administrative law judge denies the claimant's request to reopen the hearing, but holds him ineligible to receive benefits for the week ending May 17 and eligible to receive benefits as of June 29, 2014 when he reopened his claim.

ISSUES:

Did the claimant establish good cause to reopen the hearing?

Is the claimant eligible to receive benefits for the week ending May 17, 2014?

Was the claimant able to and available for work as of June 1, 2014?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of December 15, 2013. He most recently filed claims for the weeks ending May 17 and 24, 2014. When the claimant filed his claim for the week ending May 17, he reported he declined a job appointment. The claimant had been working at Heinz as a temporary employer through a temp service, Randstad. Heinz went on a short-term layoff the week of May 11. Before the layoff, the claimant planned to take a vacation. During the week of May 11, when Randstad contacted the claimant about another job, he was not able to take the job because of his planned vacation.

On June 2 a notice was mailed to the claimant informing a representative would call him on June 6 to ask him questions about a job refusal the week ending May 17, 2014. A representative called the claimant twice on June 6. The first time the claimant was unable to answer the phone because he was at work and in a meeting. The second time, the claimant did not receive the call but later noticed a message had been left for him. The claimant's June 19 appeal letter explains what had happened the week ending May 17. The claimant reopened his claim the week of June 29.

On July 15 the claimant called the Appeals Bureau because he had not been called on July 11 for a scheduled hearing. The claimant thought he would be called on July 11 even though he had not followed the hearing notice instructions. On July 11 he was on a plant shutdown and did not have the hearing notice with him. After he found the Appeals Bureau phone number, he called on July 15 and requested the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)b, c. Since the claimant did not read and follow the hearing notice instructions, he did not establish good cause to reopen the July 11 hearing. His request to reopen the hearing is denied.

Each week a claimant files a claim for benefits he 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. 871 IAC 24.23(11). Since the claimant did not file a claim for the week of June 1 he is not required to be able to and available for work this week. Since the claimant reopened his claim the week of June 29 he is potentially eligible to receive benefits as of June 29, 2014.

Based on information in the claimant's June 19 appeal letter, he was not available for work the week ending May 17, 2014 because he was on vacation. As a result, he is not eligible to receive benefits for this week. An issue of overpayment of benefits that he received for this week will be remanded to Benefits Bureau to determine.

DECISION:

The claimant's request to reopen the July 11 hearing is denied. The representative's June 9, 2014 (reference 02) determination is modified. The claimant is not eligible to receive benefits for the week ending May 17 because he was on vacation and was not able to or available for work this week. Even though the claimant did not participate at a June 6 phone interview, as of June 29 the claimant is eligible to receive benefits if he meets all other eligibility requirements.

An issue of overpayment of benefits for the week ending May 17, 2014 is remanded to the Benefits Bureau to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can