

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA D RODRIGUEZ DE LIRA
Claimant

APPEAL NO. 23A-UI-11611-PT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/05/23
Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Administrative Code rule 871-24.3(2) – Verification of Identity
Iowa Administrative Code Rules 87124.2(1)(e) & 87124.23(11) – Failure to Report as Directed

STATEMENT OF THE CASE:

The claimant, Maria D. Rodriguez de Lira, filed an appeal from the December 8, 2023 (reference 01) unemployment insurance decision that allowed benefits effective November 26, 2023, based upon a determination that claimant initially failed to provide verification of her identity but subsequently did so. After due notice was issued, a telephone hearing was held on January 3, 2024. The claimant participated personally. Spanish interpretive services were provided by CTS Language Link. The administrative law judge took official notice of the administrative record.

ISSUES:

Whether the claimant timely provided verification of her identity.

Whether the claimant is able to and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective November 5, 2023. Claimant speaks and reads limited English. Claimant went to her local IowaWorks office for assistance in filing for benefits. Claimant was unable to verify her identity through the online verification process. However, claimant does not recall receiving a message notifying her that Iowa Workforce Development (IWD) was unable to verify her identity and the employee assisting claimant did not tell claimant she needed to provide additional identity verification documentation.

On November 8, 2023, IWD mailed claimant a letter stating that if claimant was unable to provide proof of identity by November 14, 2023, “benefits may be delayed and...claim may be canceled.” Claimant never received the letter notifying claimant of the need to verify her identity.

As claimant did not receive unemployment benefits for the first three weeks of her temporary layoff, she went to her local IowaWORKS center on December 1, 2023, where a representative informed claimant that her claim was locked because IWD could not verify her identity. Claimant provided the necessary documents to verify her identity on or around December 1, 2023. Claimant's unemployment insurance claim was unlocked at that time. On December 8, 2023, IWD issued a decision finding the claimant eligible for benefits effective November 26, 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 did not know of a time that she needed to provide her identification documents to IWD as she did not receive a notice alerting her to do so. Her eligibility shall be seen as from the date of her original claim.

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:

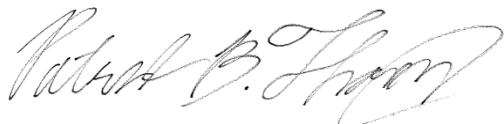
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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, an IowaWORKS representative assisted claimant when claimant applied for benefits, but the representative did not inform claimant that IWD was unable to verify her identity. Further claimant did not receive a notice in the mail warning claimant that she must provide verification of her identity by November 14, 2023 and that failure to do so might result in benefits being delayed or her claim being canceled. Claimant did not provide the requested documentation until December 1, 2023, because claimant did not know it was needed. Claimant's failure to provide the required documentation in a timely manner was potentially due to United States Postal Service or IWD error or misinformation. As claimant did not know of the IWD warning letter mailed November 8, 2023, she shall not be punished for failure to provide documentation by the date requested. As such, the administrative law judge finds claimant is able and available for work effective November 5, 2023. Benefits are allowed effective November 5, 2023, provided claimant is otherwise eligible.

DECISION:

The December 8, 2023 (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant was able to work and available for work during the period beginning November 5, 2023. The claimant is eligible for benefits for the period beginning November 5, 2023, provided the claimant is otherwise eligible.



Patrick B. Thomas
Administrative Law Judge

January 11, 2024
Decision Dated and Mailed

PBT/jkb

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:

**Iowa Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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>.

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:

**Iowa Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.