

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

SARAH F CORTES
Claimant

BARNARD PLASTIC SURGERY PC
Employer

APPEAL 23A-UI-09090-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/02/23
Claimant: Respondent (5)**

Iowa Code § 96.5(3)a – Work Refusal

STATEMENT OF THE CASE:

On September 25, 2023, employer Barnard Plastic Surgery PC filed an appeal from the September 13, 2023 (reference 04) unemployment insurance decision that found claimant was eligible for benefits after identifying that she had refused an offer of work, as no offer of work had been made. The parties were properly notified of the hearing. A telephonic hearing was scheduled for 8:00 a.m. on Tuesday, October 10, 2023. However, the administrative law judge was able to resolve the appeal without taking testimony, so no hearing was held. The administrative law judge reviewed the administrative record and communications sent by the employer to the UI Appeals Bureau to resolve this appeal.

ISSUE:

Did the employer make an offer of work to the claimant?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant opened a claim for benefits with an effective date of July 2, 2023, after a separation from employment. Each week during her unemployment, she recorded her job contacts in IowaWorks. Claimant never reported that she applied for work with Barnard Plastic Surgery PC.

During claimant's first week of unemployment, she reported that she refused an offer of work with another employer. Somehow, employer Barnard Plastic Surgery PC was inadvertently included on that fact-finding interview. Prior to the interview, the employer contacted IWD and notified the agency that claimant had never worked for the company. During the fact-finding interview, claimant stated she had applied for work with that employer or refused an offer of work with that employer. Based on the information received, the fact-finding deputy issued the reference 04 decision stating claimant remained eligible for benefits as the employer had not made an offer of work.

Claimant's wage records confirm that Barnard Plastic Surgery PC is not one of claimant's past employers. Therefore, the employer will not be charged for any benefits paid to claimant as a result of this or any other unemployment insurance decision allowing claimant benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant Sarah F. Cortes and employer Barnard Plastic Surgery PC have no relationship. This decision will be modified with no change in effect. The employer shall not be charged at any point, and claimant will remain eligible for benefits.

Iowa Code § 96.5(3)a provides:

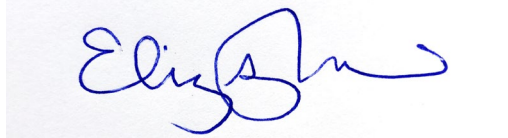
An individual shall be disqualified for benefits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Here, the parties agree – and have agreed throughout – that claimant did not apply for a position with Barnard Plastic Surgery PC, nor had she ever worked for that employer. The undersigned administrative law judge believes the underlying decision was simply issued in error by including the wrong employer account number at the time of the fact-finding interview. The underlying decision is modified with no change in effect, as under that decision, claimant was allowed benefits and the employer would not have been charged.

DECISION:

The September 13, 2023 (reference 04) unemployment insurance decision is modified with no change in effect. No offer of work was made, as claimant never filed an application with this employer or ever worked for this employer in the past. Claimant remains allowed benefits, provided she is otherwise eligible. The employer shall not be charged for any benefits paid.



Elizabeth A. Johnson
Administrative Law Judge

October 6, 2023
Decision Dated and Mailed

lj/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 adquiriera 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.