

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

GAIL L VAN BERKUM
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 23A-UI-10547-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/01/23
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Gail L. Van Berkum, the claimant/appellant,¹ appealed the Iowa Workforce Development November 3, 2023 (reference 01) unemployment insurance (UI) decision. IWD found Mr. Van Berkum eligible for REGULAR (state) UI benefits as of October 29, 2023 because IWD concluded he had been disqualified from receiving REGULAR (state) UI benefits since he had not provided proof of his identity, but later he did so. On November 14, 2023, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Van Berkum and IWD for a telephone hearing scheduled for November 29, 2023.

The undersigned administrative law judge held a telephone hearing on November 29, 2023. Mr. Van Berkum participated personally. On November 16, 2023, IWD informed the DIAL UI Appeals Bureau that IWD would not attend the hearing, and IWD submitted documents for the record. IWD did not attend the hearing. The undersigned took official notice of the administrative record and admitted Department's Exhibit 1 as evidence.

ISSUE:

Did Mr. Van Berkum fail to verify his identity?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the undersigned finds: Mr. Van Berkum applied for UI benefits online effective October 1, 2023. Mr. Van Berkum remembers seeing identity verification questions as he completed his initial claim, but he does not remember seeing an alert telling him that his identity had not been verified.

IWD mailed Mr. Van Berkum a letter on October 5 to his correct address. The letter stated that IWD was not able to verify his identity and told him that his benefits may be delayed or denied if he did not provide proof of his identity by Wednesday, October 11. Mr. Van Berkum received the letter in the mail.

¹ Claimant is the person who applied for UI benefits. Appellant is the person or employer appealed.

On Sunday, October 8, Mr. Van Berkum attempted to upload his identity verification documents to the IWD online portal. The portal would not recognize his Social Security Number. The next day, Mr. Van Berkum mailed his documents to IWD via the United States Postal Service.

Mr. Van Berkum continued to file weekly UI claims, but he did not receive any benefits. Mr. Van Berkum called IWD on October 30 and the IWD representative told him that IWD had not received his identity verification documents. The IWD representative gave Mr. Van Berkum an email address and Mr. Van Berkum sent his documents to IWD that day. IWD received the documents the same day.

IWD issued the reference 01 UI decision on November 3 finding Mr. Van Berkum eligible for UI benefits as of October 29, 2023, which is the Sunday of the week he submitted his identity verification documents.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Mr. Van Berkum is eligible for UI benefits as of October 1, 2023, the effective date of his claim, since he verified his identity as soon as he knew he needed to.

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".

Iowa Admin. Code r. 871-24.2(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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

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.

A person claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work.²

In this case, Mr. Van Berkum attempted to provide IWD with his verification documents on October 8, but the IWD online portal would not accept them. Mr. Van Berkum then mailed his verification documents to IWD the next day. On October 30, when Mr. Van Berkum learned that IWD had not received his documents, he sent the documents to IWD again. Mr. Van Berkum made several efforts to verify his identity and he did so. Mr. Van Berkum is eligible for UI benefits as of the effective date of his UI claim – October 1, 2023 – as long as no other decision denies him UI benefits.

² Iowa Admin. Code r. 871-24.22.

DECISION:

The November 3, 2023 (reference 01) UI decision is MODIFIED IN FAVOR OF THE APPELLANT, MR VAN BERKUM. Mr. Van Berkum verified his identity as soon as he knew he needed to. Mr. Van Berkum is eligible for UI benefits as of October 1, 2023, as long as no other decision denies him UI benefits.



Daniel Zeno
Administrative Law Judge

December 1, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this 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
6200 Park Avenue 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> 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
6200 Park Avenue 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 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.