

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES C MATHIS
Claimant

APPEAL NO. 22A-UI-06698-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/14/21
Claimant: Appellant (5)**

Iowa Code Section 96.4(3) – Able & Available, Work Search Warning

STATEMENT OF THE CASE:

On March 17, 2022, James Mathis (claimant) filed a timely appeal from the March 15, 2022, (reference 02) decision that reminded the claimant he was required to engage in four re-employment activities, including three job applications, each benefit week and that warned the claimant could be disqualified for benefits for any future week in which the claimant failed to meet the work search requirement. The reference 02 decision indicated it was prompted by the claimant's weekly claim for the week that ended March 12, 2022. After due notice was issued, a hearing was held on May 2, 2022. Claimant participated. The hearing in this matter was consolidated with the hearing in Appeal Number 22A-UI-06697-JT-T. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBIN, KCCO, and WAGE-C.

ISSUES:

Whether the claimant failed to meet the work search requirement during the week that ended March 12, 2022.

Whether the work search warning was appropriately imposed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

James Mathis (claimant) is employed by Silver Springs Golf & Country Club as the full-time Club House Manager. The workplace is located Ossian, Iowa. The work is seasonal in that the employer had work for the claimant during the golfing season, mid-March to mid-November, and does not have work for the claimant outside that period. At the end of each golf season, the employer and the claimant execute a contract for the upcoming golf season. The employer then lays off the claimant with the mutual understanding the claimant will return the next spring. This pattern has been in place since 2015. The claimant looks forward to the off-season and uses that time to visit his brother in Arizona or to help out his parents.

Toward the end of the 2021 golf season, the claimant and the employer executed a contract for the 2022 golf season and then the employer laid off the claimant effective November 14, 2022.

The claimant established an original claim for benefits that was effective November 2021. Iowa Workforce Development set the weekly benefit amount at \$531.00. The claimant made weekly claims for each of the 18 weeks between November 14, 2021 and March 19, 2022. The claimant reported \$90.00 in partial wages for the week that ended November 20, 2021. The claimant reported no other wages through the benefit week that ended March 19, 2022. The claimant got bored in January 2022 and made a couple inquiries about employment. At that time, the claimant disclosed to the prospective employers that he would be returning to the Club House Manager job in the spring. The claimant did not find those prospective employers receptive to hiring the claimant on a temporary basis while the claimant waited to go back to the Club House Manager position. The claimant thereafter forewent a search for new employment and instead just waited to return to the Silver Springs employment.

Effective January 9, 2022, Iowa Workforce Development launched the Re-employment Case Management (RCM) program. At that time, the Agency issued notices to claimants regarding the RCM program and expectations.

On March 9, 2022, IWD mailed a reference 01 notice/decision to the claimant holding the claimant was no longer deemed temporarily unemployed and advising the claimant he was required to engage in four re-employment activities, including three job applications, each benefit week. The claimant received the correspondence on March 12, 2022, but did not open the correspondence until March 14, 2022. The claimant did not comply with the work search and re-employment activities requirement for the week that ended March 12, 2022 or March 19, 2022.

On March 15, 2022, IWD mailed a work search warning decision to the claimant regarding his failure to meet the work search and re-employment activities requirement for the week that ended March 12, 2022.

The claimant understood that he would be returning to the Club House Manager position within a couple weeks and elected not to comply with the re-employment requirements set forth in the reference 01 decision or to conduct a work search in response to the work search warning issued on March 15, 2022.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(3) provides as follows:

96.4 Required findings. An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. a. 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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

b. Notwithstanding any provision of this chapter to the contrary, the department may establish by rule a process to waive or alter the work search requirements of this subsection for a claim for benefits if an individual has a reasonable expectation that the individual will be returning to employment and is attached to a regular job or industry or a member in good standing of a union therein eligible for referral for employment. To be

considered attached to a regular job or industry, an individual must be on a short-term temporary layoff. If work is not available at the conclusion of the layoff period due to short-term circumstances beyond the employer's control, the employer may request an extension of the waiver or alteration for up to two weeks from the department. For purposes of this paragraph, "short-term temporary layoff" means a layoff period of sixteen weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Code section 96.1A(37)(c) provides:

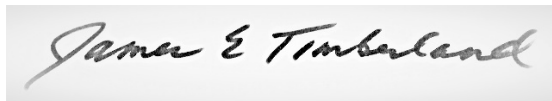
c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Effective the benefit week that ended March 12, 2022, the claimant was not temporarily unemployed and was required to engage in four re-employment activities, including three job applications, during each benefit week.

The claimant did not receive the reference 01 decision until Saturday, March 12, 2022 and did not open the correspondence until Monday, March 14, 2022. The claimant did not have a reasonable opportunity to respond to the reference 01 work search directive during the week that ended March 12, 2022. However, even after receipt of the reference 01 decision and 02 work search warning, the claimant did not meet the availability requirements for the week that ended March 19, 2022. While issuance of a work search warning for the week ending March 12, 2022 is not warranted, a work search warning for the week that ended March 19, 2022 is warranted. The claimant is required to engage in four re-employment activities, including three job applications, during each benefit week. The claimant may be disqualified for benefits for future weeks in which the claimant fails to meet the work search requirement.

DECISION:

The March 15, 2022, (reference 02) decision is MODIFIED as follows. The claimant did not have a reasonable opportunity to respond to the reference 01 work search directive during the week that ended March 12, 2022. The claimant did have a reasonable opportunity to comply with the directive during the week that ended March 19, 2022 did not meet the availability requirements for the week that ended March 19, 2022, but elected not to comply. While issuance of a work search warning for the week ending March 12, 2022 is not warranted, a work search warning for the week that ended March 19, 2022 is warranted. The claimant is required to engage in four re-employment activities, including three job applications, during each benefit week. The claimant may be disqualified for benefits for future weeks in which the claimant fails to meet the work search requirement.



James E. Timberland
Administrative Law Judge

May 13, 2022

Decision Dated and Mailed

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