

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY B BUCKLEY
Claimant

APPEAL 18A-UI-01470-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 08/20/17
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Available for work
Iowa Code § 96.4(7) – Reemployment services
Iowa Admin. Code r. 871-24.6 – Profiling for reemployment services
Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report
Iowa Admin. Code r. 871-24.11 – Eligibility review program

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 31, 2018, (reference 04) unemployment insurance decision that found claimant was not eligible for unemployment benefits because claimant failed to participate in reemployment services. The parties were properly notified of the hearing. A telephone hearing was held on February 22, 2018. The claimant, Randy B. Buckley, participated personally. Mike Barr was to participate on behalf of Iowa Workforce Development Department, but he did not answer the telephone when called to begin the hearing.

ISSUES:

Is the claimant available for work effective December 31, 2017?
Did the claimant fail to report as directed by a department representative or offer justifiable cause for their failure to do so?
Did the claimant fail to participate in a reemployment services class as directed or offer justifiable cause for their failure to do so?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits with an effective date of August 20, 2017. Claimant was selected to participate in the reemployment services program. A notice was mailed to the claimant requiring him to report for reemployment services on September 25, 2017. The claimant did receive the notice. He did not report for reemployment services because he began new employment on September 21, 2017. Working at new employment is a justifiable cause for missing reemployment services class.

On December 31, 2017, the claimant properly reopened his unemployment claim as he had just been placed on a short term temporary layoff by his employer. At that time the claimant's group

code was changed from "6" to a "3" indicating that he was only on a seasonal or temporary layoff. Employees who are on seasonal or temporary layoffs are not required to complete or participate in reemployment services. The claimant was not paid unemployment insurance benefits for the three week period from December 31, 2017 through January 20, 2018 because he was locked due to his failure to participate in reemployment services. At that point the claimant was not required to participate in reemployment services because he was only on a seasonal or temporary layoff.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did provide justifiable cause for failure to report as directed to participate in reemployment services appointment

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 Code § 96.4(7) provides:

Required findings.

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

(7) The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Iowa Admin. Code r. 871-24.6 provides:

Profiling for reemployment services.

(1) The department of workforce development and the department of economic development will jointly provide a program which consists of profiling claimants and providing reemployment services.

(2) Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

(3) Reemployment services may include, but are not limited to, the following:

- a. An assessment of the claimant's aptitude, work history, and interest.
- b. Employment counseling regarding reemployment approaches and plans.
- c. Job search assistance and job placement services.
- d. Labor market information.
- e. Job search workshops or job clubs and referrals to employers.
- f. Résumé preparation.
- g. Other similar services.

(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services.

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant.

This rule is intended to implement Iowa code section 96.4(7).

Iowa Admin. Code r. 871-24.2(1)e provides:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

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.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking

or savings account number. The department retains the ultimate authority to choose the method of reporting and payment.

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.

If the department identifies a claimant who is likely to exhaust benefits, in order to be eligible for weekly benefits a claimant must report as directed to participate in reemployment services. Iowa Code § 96.4(7). While the claimant may have been properly coded as permanently unemployed when he filed his original claim in August 2017, after he returned to work in September 2017 he was no longer an employee likely to exhaust benefits. When the claimant was placed on a short term layoff in December 2017, the agency changed the claimant's group code from "6" to "3" in recognition of the fact that he was only temporarily or seasonally laid off beginning on December 31, 2017. Under these circumstances the claimant is not required to attend reemployment services before he can begin to receive unemployment insurance benefits as he is temporarily unemployed. Therefore, the administrative law judge concludes that the claimant is eligible for benefits beginning with his claim reopening date on December 31, 2017 even though he had not completed reemployment services. The claimant shall be paid full unemployment insurance benefits for the three week period ending January 20, 2018. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The January 31, 2018, (reference 04) unemployment insurance decision is modified in favor of the claimant. The claimant has not failed to report for a reemployment services appointment. The claimant is temporarily laid off effective December 31, 2017. Benefits are allowed effective December 31, 2017. .

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs