

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**ROY JOINTER**  
Claimant

**APPEAL 19A-UI-03270-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 02/17/19  
Claimant: Appellant (4)**

---

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions  
Iowa Admin. Code r.871 IAC 24.2(1)e – Failure to Report

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the April 12, 2019 (reference 03) decision that denied benefits effective March 31, 2019. After due notice was issued, a hearing was held by telephone conference call on May 8, 2019. Claimant participated. Claimant's Exhibit A was received. Official notice was taken of Iowa Workforce Development (IWD) records.

**ISSUES:**

Was the claimant able to and available for work?  
Did the claimant fail to report to IWD as directed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: When filing his weekly continuing claim for the week ending March 23, 2019, the claimant mistakenly indicated that he had refused an offer of work that week. The claimant was out of the state for a funeral of a family member from March 17 through March 23. Because claimant indicated that he had refused an offer of work, IWD set up a fact-finding interview for him so they could discuss the issue. A notice was mailed to claimant on March 28, 2019 telling him to be available for a telephone call on April 5, 2019 at 2:10 p.m. The claimant did not receive the notice telling him about the fact-finding interview until after the date for the interview had already passed. Once the claimant received the fact-finding notice he immediately called IWD to resolve the issue.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not able to and available for work for the one week period ending March 23, 2019.

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. 871-24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The claimant was out of the state for the majority of the week for personal reasons related to the death of a family member. Under these circumstances he cannot be considered able to and available for work for that one week period.

For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for having failed to report as directed.

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. 871-24.6(1-6) provides:

Reemployment services and eligibility assessment procedure.

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

(1) Purpose.

a 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.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

(3) Reemployment services and eligibility assessment 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 or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause..

- 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. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.
- b. Reserved.

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

Non-receipt of the notice is a good-cause reason for a failure to report as directed. Since claimant has established a good cause reason for failing to report as directed, benefits are

allowed effective March 31, 2019 with the exception of the one week period ending March 23, 2019 where the claimant was not able to and available for work.

**DECISION:**

The April 12, 2019, (reference 03) decision is modified in favor of the appellant. The claimant has established a good cause reason for failing to report as directed. The claimant was not able to and available for work for the one week period ending March 23, 2019. Benefits are allowed effective March 31, 2019, provided the claimant is otherwise eligible.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/rvs