

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GUELORD D TSHITENGE

Claimant

APPEAL 19A-UI-06046-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/30/19

Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Admin. Code r. 871-24.22(2) – Able & Available – Benefits Eligibility Conditions

Iowa Admin. Code r. 871-24.2(1)(e) – Able & Available – Report as Directed by Department

Iowa Admin. Code r. 871-24.3(2) – Able & Available – Identity Verification

STATEMENT OF THE CASE:

Claimant filed an appeal from the July 22, 2019, (reference 01) unemployment insurance decision that allowed benefits effective July 14, 2019, based upon a determination that claimant initially failed to provide verification of his identity but subsequently did so. Claimant was properly notified of the hearing. A telephonic hearing was held on August 22, 2019. The claimant participated with the assistance of a French Interpreter. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant able to and available for work effective June 30, 2019?

Did the claimant timely provide verification of his identity?

Did the claimant fail to report as directed by a department representative?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant initially opened a claim for unemployment insurance benefits effective June 30, 2019. Claimant was unable to verify his identity through the online verification process. Therefore, on the claim confirmation page, a notice appeared stating claimant was required to provide qualifying proof of identity to the agency by July 8, 2019, in order to prevent benefits from being delayed and the claim from being canceled. On July 2, 2019, the agency mailed claimant a letter also stating that if claimant was unable to provide proof of identity by July 8, 2019, “benefits may be delayed and ... claim may be canceled.”

Claimant did not provide proof of identity until on or about July 14, 2019, when he provided proof of his identity to Iowa Workforce Development. These documents were confirmed, and claimant’s unemployment insurance claim was unlocked at that time. The same day, the agency issued a decision finding claimant eligible for benefits effective June 14, 2019, as he provided the requested identity verification documents.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant failed to provide timely verification of his identity.

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...

Iowa Admin. Code r. 871-24.3(2) provides:

The claim will not become valid until the identity has been verified by the department...

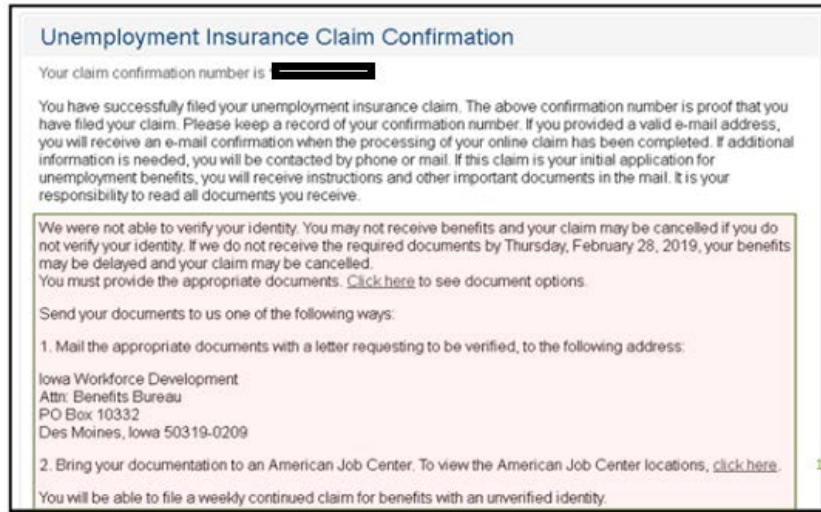
Iowa Admin. Code r. 871-24.23(11) provides:

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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using common sense and experience, the administrative law judge finds claimant was not credible when he denied knowing that he needed to provide proof of his identity. When claimant failed to verify his identity while opening his claim, a message would have appeared with the claim confirmation number notifying him that his identity could not be verified and he needed to take additional action. Specifically, claimant would have seen something nearly identical to the following information:

A screenshot of a printed letter titled "Unemployment Insurance Claim Confirmation". The letter informs the claimant that their claim has been successfully filed and provides a confirmation number. It also states that if additional information is needed, the claimant will be contacted by phone or mail. A highlighted section in pink contains a warning: "We were not able to verify your identity. You may not receive benefits and your claim may be cancelled if you do not verify your identity. If we do not receive the required documents by Thursday, February 28, 2019, your benefits may be delayed and your claim may be cancelled. You must provide the appropriate documents. Click here to see document options." Below this, it lists two ways to send documents: by mail to the Iowa Workforce Development Benefits Bureau or by bringing them to an American Job Center. The letter concludes by stating that the claimant will be able to file a weekly continued claim for benefits with an unverified identity. A small green number "12" is visible in the bottom right corner of the highlighted section.

Unemployment Insurance Claim Confirmation

Your claim confirmation number is [REDACTED]

You have successfully filed your unemployment insurance claim. The above confirmation number is proof that you have filed your claim. Please keep a record of your confirmation number. If you provided a valid e-mail address, you will receive an e-mail confirmation when the processing of your online claim has been completed. If additional information is needed, you will be contacted by phone or mail. If this claim is your initial application for unemployment benefits, you will receive instructions and other important documents in the mail. It is your responsibility to read all documents you receive.

We were not able to verify your identity. You may not receive benefits and your claim may be cancelled if you do not verify your identity. If we do not receive the required documents by Thursday, February 28, 2019, your benefits may be delayed and your claim may be cancelled. You must provide the appropriate documents. [Click here](#) to see document options.

Send your documents to us one of the following ways:

1. Mail the appropriate documents with a letter requesting to be verified, to the following address:
Iowa Workforce Development
Attn: Benefits Bureau
PO Box 10332
Des Moines, Iowa 50319-0209
2. Bring your documentation to an American Job Center. To view the American Job Center locations, [click here](#).

You will be able to file a weekly continued claim for benefits with an unverified identity.

The only difference between the graphic above and the message claimant would have received is that claimant would have had until July 8, 2019, to provide the required documents. The administrative law judge finds that even if claimant did not receive the follow-up letter in the mail, he was notified when the claim was filed that he needed to provide verification of his identity.

In this case, claimant received notification that he needed to provide verification of his identity by July 8, 2019, in order to prevent benefits from being delayed and/or the claim being canceled. Claimant did not provide the requested documentation until on or about July 14, 2019. There is no evidence in the record indicating claimant's failure to provide the required documentation in a timely manner was due to agency error. The administrative law judge finds claimant was not available for work until July 14, 2019, when he provided the required identity verification documents to the agency.

Therefore, benefits are withheld from June 30, 2019 through July 13, 2019. Benefits are allowed effective July 14, 2019, provided claimant is otherwise eligible.

DECISION:

The July 22, 2019, (reference 01) unemployment insurance decision is affirmed. Claimant was not available for work during the two-week period ending July 13, 2019, for failing to provide verification of identity as required. Benefits are allowed effective July 14, 2019, provided he is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn