

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JOHN D FERRER**  
Claimant

**APPEAL 18A-UI-10101-SC-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 02/04/18**  
**Claimant: Appellant (3)**

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Iowa Code § 96.4(3) - Able and Available  
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report  
Iowa Admin. Code r. 871-24.23(11) – Failure to Report

**STATEMENT OF THE CASE:**

John D. Ferrer (claimant) filed a timely appeal from the October 1, 2018, reference 08, unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was held on October 22, 2018. The claimant participated. The Claimant's Exhibit A was admitted into the record.

**ISSUES:**

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: The claimant filed his claim for benefits effective February 4, 2018. He reactivated his claim for benefits effective July 22, 2018 and filed through the week-ending August 4, 2018. The claimant had worked for Advance Services during the week-ending July 28, 2018 and reported the wages earned.

On September 12, 2018, a notice was mailed to the claimant's last known mailing address in Pella, Iowa to provide additional information to Iowa Workforce Development (IWD) regarding his last employer which was due by September 24, 2018. The claimant did not receive the notice as he had left for a trip to California on or about September 4, 2018. On September 12, 2018, the claimant cut his trip to California short and went to Texas to be with family as his sister-in-law was dying of cancer. The claimant is currently still in Texas with family grieving their loss.

The claimant reactivated his claim for benefits September 16, 2018. The claimant contacted IWD and learned he had not provided the information requested. On October 5, 2018, the claimant provided the requested information to IWD.

The claimant has been looking for work while in Texas, but is there primarily to be with family during their loss. While in Texas, he has applied for one job in Texas, another job in Tennessee and another in Michigan. He also contacted Advance Services in Iowa about work and they did have open positions but they were for the month of October. As the claimant will not be returning to his home in Pella, Iowa until on or about November 5, 2018, he was not able to accept a new assignment with Advance Services.

### **REASONING AND CONCLUSIONS OF LAW:**

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 as he did not receive the notice. However, the claimant is not available for work and benefits are denied effective September 16, 2018 and continuing until he returns to the labor market in which he resides.

Iowa Code § 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.

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. 871-24.22(2) provides, in relevant part:

Benefit 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 Admin. Code r. 871-24.23 provides, in relevant part:

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.

...

(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.

Since he did not receive the notice, the claimant has established a good cause reason for failing to report as directed. However, he did not receive the notice because he is out of town for personal reasons. The claimant is not available for work and benefits are denied effective September 16, 2018 and continuing until he returns to the labor market in which he resides.

**DECISION:**

The October 1, 2018, reference 08, unemployment insurance decision is modified in favor of the respondent. The claimant has established a good cause reason for failing to report as directed as he did not receive the notice. However, he is currently out of town due to personal reasons. Benefits are denied effective September 16, 2018 and continuing until he returns to the labor market in which he resides.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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