

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

CELESTE C NAVRKAL
Claimant

APPEAL NO. 09A-UI-08200-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/08/09
Claimant: Appellant (2)

Iowa Code Section 96.4(3) – Able and Available
871 IAC 24.2(1)e – Failure to Report

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 27, 2009, reference 03, decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was held on June 24, 2009. Claimant participated.

ISSUE:

The issue is whether claimant failed to report to Iowa Workforce Development (IWD) as directed.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On May 11, 2009, a notice was mailed to the claimant to be available for a call from IWD on May 26, 2009 about whether the claimant had quit a job or was fired for work the week ending April 4, 2009. The claimant received a call from Iowa Workforce Development on May 26, 2009. The claimant did not pick up the call as caller ID did not identify the call and the claimant had been receiving numerous calls from an unidentified number trying to sell her services. The claimant checked the phone messages within the hour. No callback number was left and the message said that a decision was going to be reached on the information the department had. The form, Unemployment Insurance Notice To Report, does have a phone number to call prior to the interview but does not provide a number to call after the interview time.

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.

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".

871 IAC 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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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 financial institution's account 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.

871 IAC 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.

The claimant was not provided a callback number and the report form does not provide a clear notice of a phone number to call. The claimant had a reasonable belief the claims representative was going to make a decision on the quit/discharge based upon the record and

she did not know that the department was going to consider her failure to answer the call as a disqualifying issue.

Since claimant has established a good-cause reason for failing to report as directed, benefits are allowed and the decision is reversed.

DECISION:

The May 27, 2009, reference 03, decision is reversed. The claimant has established a good-cause reason for failing to report as directed. Benefits are allowed effective May 24, 2009, provided the claimant is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/css