

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARK A GREEN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**APPEAL 17A-UI-01174-JCT
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/24/16
Claimant: Appellant (4)**

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:

The claimant filed a timely appeal from the January 24, 2017, (reference 12) decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was set for February 22, 2017. The claimant participated personally. Department Exhibit D-1 was admitted into evidence. The claimant waived notice on the issue of whether the claimant failed to report as directed by a department representative.

ISSUE:

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?
Is the claimant able to work and available for work effective January 15, 2017?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: The administrative record did not contain a notice of inquiry that was sent after October 2016, which would coincide with the initial decision, that would support the claimant may have failed to respond or report to the department. Because there is no such letter contained in the administrative record, the administrative law judge was unable to ascertain when the letter may have been sent or what address to which it was mailed. The claimant reviewed his documentation from IWD and could not locate a letter of inquiry received.

For the weeks ending December 24, 2016 through February 18, 2017, however, the claimant mistakenly pushed the button showing he had made zero job search contacts for the week. That information is inaccurate inasmuch as the claimant has made his job searches each week. The claimant was however hospitalized twice during that period: January 3 through 8, 2017 and January 13 through 17, 2017.

The claimant provided information about his job searches, which include health and safety coordinator positions in the construction industry, full-time, and primarily overseas, as he has

performed for approximately 25 years. The claimant currently has no medical or other restrictions to employability.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and the claimant has established a good cause reason for having failed to report as directed.

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. 871-24.23(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.

Since he did not receive the notice, the claimant has established a good cause reason for failing to report as directed. The claimant has been making his job search contacts each week since December 24, 2016. However, the claimant was not able to and available for work due to hospitalization from January 3 through 8, 2017, and January 13 through 17, 2017, and therefore is ineligible for benefits for the weeks ending January 7, January 14 and January 21, 2017.

DECISION:

The January 24, 2017, (reference 12) unemployment insurance decision is modified in favor of the appellant. The claimant has established a good cause reason for failing to report as directed because he did not receive a letter of inquiry. The underlying issue was the result of a reporting error. Benefits are allowed effective January 22, 2017, provided he is otherwise eligible. Benefits are denied effective January 1, 2017, through January 21, 2017, due to the claimant's hospitalization.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs