

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALEXANDRA DUBALL
Claimant

APPEAL 20A-UI-02795-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/07/19
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report
Iowa Admin. Code r. 871-24.23(11) – Failure to Report
Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On April 1, 2020, Alexandra Duball (claimant) filed an appeal from the March 27, 2020 (reference 03) unemployment insurance decision that found she was not eligible for benefits effective March 22, 2020, due to failing to report as directed.

A telephone hearing was held on May 4, 2020. The parties were properly notified of the hearing. The claimant participated personally. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was scheduled for a one-party fact-finding interview on March 25, 2020 at 3:20 p.m. The call came later than claimant was expecting and she was unable to get to the phone because she was breastfeeding. She did not initially get the voicemail message left by the fact-finder because of an issue with her phone. Claimant reached an IWD representative a day or two after and was told notes were entered into her file. She was later told to simply wait for her appeal.

Claimant has experience with warehouse, cleaning, retail, and food service positions. She has consistently searched for work in these areas. She has adequate transportation. In short, she is otherwise able to and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the March 27, 2020 (reference 03) unemployment insurance decision that found claimant was not eligible for benefits effective March 22, 2020 due to failing to report as directed is REVERSED.

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. 871-24.2(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.¹ 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.

...

The department retains the ultimate authority to choose the method of reporting and payment.

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

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.

Claimant has established a good cause reason for failing to report as directed. The call came later than claimant was expecting and she was unable to get to the phone because she was breastfeeding. She did not initially get the voicemail message left by the fact-finder because of an

¹ As of October 1, 2016, the agency requires all continued weekly claims to be filed online.

issue with her phone. Claimant reached an IWD representative a day or two after and was told notes were entered into her file. She was later told to simply wait for her appeal. As such, benefits are allowed, provided she is otherwise eligible.

Claimant has experience with warehouse, cleaning, retail, and food service positions. She has consistently searched for work in these areas. She has adequate transportation. In short, she is otherwise able to and available for work.

Because the administrative law judge finds claimant is eligible for benefits, the overpayment issue need not be addressed.

DECISION:

The March 27, 2020 (reference 03) unemployment insurance decision that found claimant was not eligible for benefits effective March 22, 2020 due to failing to report as directed is REVERSED. Benefits are allowed, provided claimant is otherwise eligible.



Andrew B. Duffelmeyer
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May 11, 2020
Decision Dated and Mailed

abd/scn