

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LANG KIN
Claimant

APPEAL 20A-UI-04053-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/15/19
Claimant: Appellant (2)

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
Iowa Code § 96.6(2) - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 14, 2020, (reference 03) unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was set for June 1, 2020. Claimant participated personally and through an interpreter with CTS Language Link. Department Exhibit 1 was received.

ISSUES:

Is the appeal timely?
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: Claimant filed a weekly claim for unemployment insurance benefits for the one week ending February 1, 2020. Claimant reported that she declined an offer of work. Claimant mistakenly made that report. She did not decline an offer of work that week.

On February 6, 2020, a notice was mailed to the claimant to be available for a call from Iowa Workforce Development on February 13, 2020, at 10:10 a.m. about her reported refusal of work. The claimant did not report because the claimant was working at the new job she started.

On February 14, 2020, Iowa Workforce Development mailed a reference 03 unemployment insurance decision denying benefits to claimant's last address of record. The decision warned that an appeal was due by February 24, 2020. It is unknown whether claimant received the decision, as claimant does not read English proficiently. Claimant's daughter tries to help her, but is not completely proficient in reading English either.

At the end of April 2020, claimant's new employer laid her off. Claimant filed an additional claim for unemployment insurance benefits. Claimant's claim was unlocked. Claimant's daughter filed an appeal on her behalf on May 15, 2020.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

Claimant did not file a timely appeal because of the language barrier. Claimant did not have reasonable notice of a decision denying her benefits. Once claimant became aware of the issue, she had her daughter file an appeal on her behalf. The appeal shall be accepted as timely.

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 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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) 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 claimant missed the fact-finding interview due to the fact that she gained new employment, which is the ultimate goal of Iowa Workforce Development, claimant has established a good cause reason for failing to report as directed.

DECISION:

The February 14, 2020, (reference 03) unemployment insurance decision is reversed. The appeal is timely. The claimant has established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are allowed effective February 9, 2020, provided claimant is otherwise eligible.



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June 22, 2020
Decision Dated and Mailed

cal/scn