

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DUSTIN E KALKAS
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-UI-12833-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/02/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Available for work
Iowa Code § 96.4(7) – Reemployment services
Iowa Admin. Code r. 871-24.6 – Profiling for reemployment services
Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report

STATEMENT OF THE CASE:

The claimant/appellant, Dustin E. Kalkas, filed an appeal from the October 8, 2020 (reference 04) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits because claimant failed to report or complete requirements for a reemployment services appointment. The parties were properly notified of the hearing. A telephone hearing was held on December 14, 2020.

The claimant participated personally. Diana Kalkas, mother of claimant, participated as an observer. Maria Cortez, workforce advisor, participated on behalf of Iowa Workforce Development (“IWD”). IWD Exhibits 1-4 were admitted. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUES:

Is the claimant available for work effective October 4, 2020?
Did the claimant fail to report as directed by a department representative to participate in a reemployment services appointment or offer justifiable cause for their failure to do so?

FINDINGS OF FACT:

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

The claimant filed a claim for unemployment insurance benefits with an effective date of August 2, 2020. Claimant was selected to participate in a reemployment services. On September 28, 2020, IWD mailed claimant a notice to report for a phone appointment on October 6, 2020 at 2:00 p.m. Claimant had not previously participated in this appointment during this claim year.

Claimant did not report for the appointment because he did not check his mail between September 28, 2020 and October 10, 2020. Claimant did not check his mail because he was

busy with his kids home and due to the pandemic. On October 6, 2020, Advisor Cortez made two attempts to contact claimant at his number on file. Claimant does not have voicemail set up and does not pick up unknown numbers. Claimant did not contact Advisor Cortez after opening the notice to report and has not completed the required appointment to date.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not provide justifiable cause for the failure to report as directed to participate in a reemployment services appointment.

Each week a claimant files a claim for benefits he must be able to and available for work. Iowa Code § 96.4(3). To maintain continued eligibility, a claimant shall report as directed by an authorized representative. 871 IAC 24.2(1)e. A claimant who fails to report as directed by notice mailed to the claimant is deemed unavailable for work. Iowa Admin. Code r. 24.23(11).

If the department identifies a claimant who is likely to exhaust benefits, in order to be eligible for weekly benefits a claimant must report as directed to participate in reemployment services. Iowa Code § 96.4(7). Unemployment insurance rules require a claimant to participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Iowa Admin. Code r. 871-24.6(6). Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services. *Id.*

Justifiable cause for failure to participate includes an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service. *Id.* The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause. *Id.* Failure to report for the appointment, failure to contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause for missing the appointment, or failure to have justifiable cause for failing to report for the appointment means the claimant has failed to meet the availability requirements of the law. *Id.*

Claimant did not check his mail for a period of September 28, 2020 through October 10, 2020. Claimant's decision not to check his mail while he was busy with his children was a personal choice. Claimant did not check his mail for over ten days. Claimant's delay in receipt of the fact-finding interview was not due to Agency or postal service error. Upon receipt of the notice to report, claimant did not contact Advisor Cortez to complete the required appointment. The claimant did not notify IWD of the reason claimant failed to report as directed. Claimant failed to present justifiable cause for his failure to report as directed for a reemployment services appointment. Benefits are denied effective October 4, 2020, and continuing until the claimant completes the reemployment services appointment.

DECISION:

The October 8, 2020 (reference 02) unemployment insurance decision is affirmed. The claimant has not provided justifiable cause for having failed to report for a reemployment services appointment. Benefits are denied effective October 4, 2020, and continuing until the claimant completes the reemployment services appointment.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

December 23, 2020
Decision Dated and Mailed

jlb/mh

Note to Claimant: This decision denies benefits. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.* If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

NOTE TO CLAIMANT: You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>