

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JERRY WILHELM
Claimant

APPEAL 17A-UI-10723-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 08/20/17
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

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 17, 2017, (reference 05), unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was scheduled to be held on November 6, 2017. Claimant participated.

ISSUE:

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

FINDINGS OF FACT:

On October 3, 2017, a notice was mailed to claimant requesting information about his pension he was receiving. The notice required claimant to respond by October 13, 2017. Claimant received the notice and he faxed a response to Iowa Workforce Development (IWD) prior to October 13, 2017. Claimant faxed his response back to IWD within a few days after receiving the notice. Claimant is receiving a pension from IPERS and answered the questions on the notice regarding the percentages of contribution.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant reported 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.

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.

Claimant presented credible evidence that he timely responded to the notice to report regarding the pension that he is receiving. Although IWD may not have received claimant's response, he promptly appealed once he received the decision denying him benefits for failing to appear. Therefore, benefits are allowed effective October 8, 2017, provided he is otherwise eligible.

It is noted that the administrative record reflects that the underlying pension issue has already been remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination in appeal number 17A-UI-10410-JCT.

DECISION:

The October 17, 2017, (reference 05) unemployment insurance decision is reversed. Claimant has established he did report as directed. Benefits are allowed effective October 8, 2017, provided he is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs