

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PATRICIA L MOSES
Claimant

APPEAL 17A-UI-12335-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/03/17
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 appealed an unemployment insurance decision dated November 30, 2017, (reference 03) that concluded she was ineligible for benefits because she failed to report as directed. A telephone hearing was held on December 22, 2017. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On November 16, 2017, a notice was mailed to the claimant to be available for a call from IWD on November 28, 2017 about her availability for work the week ending November 11, 2017. She did not report because she did not receive the notice. The claimant checks her mail daily and acknowledged she has had some mail delivery issues as she lives in a duplex and mail is often switched. She maintains a folder containing mail from IWD and did not locate the notice. When she received the voicemail from the fact-finding interview, she attempted to return the call unsuccessfully.

The claimant filed a weekly voice response claim and mistakenly pushed the button indicating she was not available for work. The claimant conducted her required work searches for the week and was otherwise able and available for work.

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 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:

Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

(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 in the individual's account at a financial institution or on a selected debit card.

(2) In order for an individual to receive payment by direct deposit, the individual must provide the financial institution selected by the department with the appropriate bank routing code number and a checking or savings account number.

(3) 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.

The underlying issue that triggered a fact-finding interview on November 28, 2017, was due to the claimant incorrectly stating she was not able and available for work for the week ending

November 11, 2017. The claimant provided credible evidence this was a mistake and she met the eligibility requirements.

The reason the claimant failed to report for her fact-finding interview, was due to non-receipt of the notice. Since the claimant did not receive the notice to report, the claimant has established a good cause reason for failing to report as directed. Accordingly, benefits are allowed.

DECISION:

The November 30, 2017, (reference 03) unemployment insurance decision is reversed. 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 November 26, 2017, provided she is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs