

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, either enter a default decision or proceed with the hearing and make a decision in the absence of the party.

Likewise, Iowa Workforce Development administrative rules provide that the presiding officer may enter a default decision and dismiss the appeal if the appealing party “is unavailable for the hearing” Iowa Admin. Code r. 871-26.14(7). Because the Appellant failed to appear and failed to participate in the telephone hearing, the entry of a default decision in this case is appropriate. **The Appellant may request a new hearing by following the instructions under “Appeal Rights” below.**

### ORDER

The Appellant is in default and the appeal is dismissed. The Department shall proceed as if no appeal had been filed and shall take any action necessary to implement this decision.

Dated and mailed this November 6, 2017.



Jonathan M. Gallagher  
Administrative Law Judge

cc: Javier Urgell (By Mail and Email)  
Emily Chafa, IWD (By Email)  
Joni Benson, IWD (By Email)  
Nicholas Olivencia, IWD (By Email)

### APPEAL RIGHTS

This decision shall become final agency action and the Appellant will not have a hearing on this appeal unless the Appellant asks to schedule a new hearing by filing a motion to vacate the default decision. A motion to vacate must be filed within fifteen (15) days by mail and must state in writing “good cause” for failing to attend the hearing. *See* Iowa Admin Code r. 871-26.8(3). “Good cause” is defined in Iowa Workforce Development rules “as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing.” Iowa Admin. Code r. 871-26.8(3). A copy of the motion to vacate must also be sent to Iowa Workforce Development.

The motion to vacate must be filed with the presiding officer by submitting to the Administrative Hearings Division by delivery or mail at Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319, by email to [adminhearings@dia.iowa.gov](mailto:adminhearings@dia.iowa.gov), or by fax to (515) 281-4477.

**NOTICE**

The claimant should continue to file weekly claims for unemployment insurance benefits while the motion to vacate is pending. A claimant can only receive benefits for the weeks he or she filed a valid claim.