

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

IRMA M DUCKWORTH
Claimant

APPEAL 20A-UI-00974-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/22/19
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.5(1) – Alien – Disqualification
Iowa Admin. Code r. 871-24.2(1)e – Failure to Report
Iowa Admin. Code r. 871-24.3(2) – Failure to Report
Iowa Admin. Code r. 871-24.60 – Alien – Disqualification

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 23, 2020 (reference 01) unemployment insurance decision that found the claimant did not provide proof that she was a citizen or legally authorized to work in the United States. The claimant was properly notified of the hearing. A telephone hearing was held on February 18, 2020. The claimant participated personally. Claimant's Exhibit A was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Is the claimant able to and available for work?
Did the claimant fail to report as directed by a department representative?
Did the claimant fail to provide verification documentation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant received a letter from Iowa Workforce Development dated January 8, 2020 instructing her to provide copies of her employment authorization documentation to her local workforce development office. Claimant forgot to send in the documentation. She received the decision dated January 23, 2020 (reference 01) that denied benefits based upon her failure to provide proof that she was a citizen or legally authorized to work in the United States. She faxed a W2, resident alien card and driver's license with her appeal letter. See Exhibit A. The fax is illegible in part. See Exhibit A. Claimant's last name changed from "Sanchez" to "Duckworth" when she was married. Claimant has not yet reported to her local Iowa Workforce Development to provide copies of her employment authorization documentation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", subparagraph (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 Code § 96.5(10) provides:

Causes for disqualification. An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

Aliens — disqualified. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

Iowa Admin. Code r. 871-24.60 provides:

Alien. Any person who is not a citizen or a national of the United States. A national is defined as a person who lives in mandates or trust territories administered by the United States and owes permanent allegiance to the United States. An alien is a person owing allegiance to another country or government.

(1) Section 3304(a)(14) of the Federal Unemployment Tax Act requires that the state law deny benefits which are based on services performed by an alien who has not been legally admitted to the country as a permanent resident. This provision does not deny benefits on the basis of services performed by noncitizens. It applies to services performed by individuals who do not have legal status of permanent residence in this country.

(2) It is required that information designed to identify illegal nonresident aliens shall be requested of all claimants for benefits. This shall be accomplished by asking each

claimant at the time the individual establishes a benefit year whether or not the individual is a citizen.

a. If the response is “yes,” no further proof is necessary and the claimant’s records are to be marked accordingly.

b. If the answer is “no,” the claimant shall be requested to present documentary proof of legal residency. Any individual who does not show proof of legal residency at the time it is requested shall be disqualified from receiving benefits until such time as the required proof of the individual’s status is brought to the local office. The principal documents showing legal entry for permanent residency are the Form I-94, Arrival and Departure Record, and the Forms I-151 and I-551, Alien Registration Receipt Card. These forms are issued by the U.S. Citizenship and Immigration Services and should be accepted unless the proof is clearly faulty or there are reasons to doubt their authenticity. An individual will be required to provide the individual’s alien registration number at the time of claim filing.

c. Any or all documents presented to the department by an alien shall be subject to verification with the U.S. Citizenship and Immigration Services. The citizenship question shall be included on the initial claim form so that the response will be subject to the provisions of rule 871—25.10(96), prosecution on overpayments.

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.

Iowa Admin. Code r. 871—24.3 provides:

Social security number needed for filing. A claim will not become valid until the identity of the claimant has been verified by the department.

(1) Upon the filing of a claim, notification shall be provided to the claimant if the claimant’s identity was not verified.

(2) If the agency is unable to verify the claimant's identity in the claim application, the claimant must provide approved documents. Approved documents must include at least one document containing a social security number. The department shall determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.

Claimant has not provided Iowa Workforce Development legible copies of her documentation establishing that she is a citizen or legally authorized to work in the United States. Until such documentation is provided, she is considered unavailable for work pursuant to Iowa Admin. Code r. 871-60(2).

Benefits are denied effective December 22, 2019 and continuing until the claimant provides proof of citizenship or that she is legally authorized to work in the United States to her local office. The principal documents showing legal entry for permanent residency are the Form I-94, Arrival and Departure Record, and the Forms I-151 and I-551, Alien Registration Receipt Card. See Iowa Admin. Code r. 871-24.60.

DECISION:

The January 23, 2020 (reference 01) decision is affirmed. Benefits are denied effective December 22, 2019 and continuing until the claimant provides proof of citizenship or proof that she is legally authorized to work in the United States to her Iowa Workforce Development local office.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/scn