

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JARRETT R MEYER
Claimant

APPEAL NO. 10A-UI-08219-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01-17-10
Claimant: Appellant (3-R)

Iowa Code § 96.4(3) – Able and Available
Iowa Code § 96.4(3) – Adequate Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 2, 2010, reference 01, decision. The decision warned that the claimant may be disqualified for future weeks in which benefits are claimed and fewer than two in-person job contacts are made but did not deny benefits for that week. After due notice was issued, a hearing was held on July 24, 2010. The claimant did participate in the hearing.

ISSUE:

The issue is whether the warning to make two or more in-person job contacts per week is appropriate and whether the claimant was physically able to and available for work for the week ending May 29, 2010?

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 January 17, 2010. During the week ending May 29, 2010, the claimant failed to conduct at least two in-person work searches because he was sick and in the hospital for the week. The claimant was not physically able to and available for work for the week ending May 29, 2010 and should not have received unemployment insurance benefits for that week.

REASONING AND CONCLUSIONS OF LAW:

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", 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".

871 IAC 24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

The claimant is obligated to make at least two in-person work searches during each week benefits are claimed. The claimant failed to do so because he was ill and hospitalized. The claimant should not have been paid benefits for the week ending May 29, 2010. Accordingly, the warning was appropriate.

REMAND:

The matter of determining the amount of the potential overpayment and whether the overpayment should be recovered under Iowa Code § 96.3(7)b is remanded to the Agency.

DECISION:

The June 2, 2010, reference 01, decision is modified in favor of the respondent. The decision warning the claimant to conduct at least two in-person work searches during each week benefits are claimed was appropriate and the claimant is disqualified from receipt of unemployment insurance benefits for the week ending May 29, 2010.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw