

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DESTINEE N BRINER
Claimant

APPEAL NO: 20A-UI-01480-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/03/19
Claimant: Appellant (2)

871 IAC 24.2-1-e – Failure to Report as Directed
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant/appellant appealed from the February 5, 2020, reference 05, decision that determined she failed to report to the Department as directed and denied benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 5, 2020. The claimant participated in the hearing. Department's Exhibit D-1 was admitted to the record.

ISSUE:

The issue is whether the claimant's appeal is timely and whether she failed to report as directed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on February 5, 2020. The claimant received the decision at the address listed above. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by February 15, 2020. That date fell on a Saturday so the appeal was due February 17, 2020. The appeal was not filed until February 18, 2020, which is after the date noticed on the disqualification decision. The claimant stated her mother did not give her the mail until after February 12, 2020. Under these circumstances, the administrative law judge finds the claimant's appeal is timely.

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was directed to report to the Department January 29, 2020, to discuss whether she failed to apply for work. She received the letter at 5:00 p.m. January 28, 2020, and the Department did not open again until 9:00 a.m. January 29, 2020. The claimant was scheduled to take her grandmother to an appointment at the hospital at 8:00 a.m. January 29, 2020. She contacted the Department January 30, 2020, but the letter denying her benefits effective February 2, 2020, had already been sent.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant failed to report as directed. For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for having failed to report as directed.

A claimant will be disqualified as unavailable for work if she fails to report as directed to Iowa Workforce Development in response to the notice that was mailed to her. See 871 IAC 24.23(11).

871 IAC 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.

871 IAC 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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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 financial institution's account 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.

The administrative law judge finds that the claimant received the Notice to Report the evening before the meeting was scheduled and had a prior commitment. She had to attend to her prior commitment at 8:00 a.m. and the Department did not open until 9:00 a.m. Under these circumstances, the administrative law judge finds the claimant shall not be disqualified because she received the notice late.

DECISION:

The unemployment insurance decision dated February 5, 2020, (reference 05), is reversed. The claimant did not fail to report as directed. Benefits are allowed effective February 2, 2020, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn