

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

EMILY J SWAILES
Claimant

APPEAL NO. 19A-UI-04452-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 02/17/19
Claimant: Appellant (4)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Emily Swailes filed a timely appeal from the May 24, 2019, reference 04, decision that denied benefits effective May 19, 2019, based on the deputy's conclusion that Ms. Swailes failed to report as directed and therefore was not available for work within the meaning of the law. After due notice was issued, a hearing was held on June 26, 2019. Ms. Swailes participated. The hearing in this matter was consolidated with the hearing in Appeal Numbers 19A-UI-04451-JTT and 19A-UI-04710-JTT. Exhibits A through D and Department Exhibits D-1 through D-5 were received into evidence.

ISSUE:

Whether Ms. Swailes failed to report as directed for a fact-finding interview set for May 23, 2019 and therefore was not available for work within the meaning of the law effective May 19, 2019.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Emily Swailes established an original claim for benefits that was effective February 17, 2019 and received benefits that included \$372.00 in benefits for the week that ended May 11, 2019. When Ms. Swailes made her weekly claim for that week, she made a mistake by answering no to the question of whether she was able to work and available for work that week. The weekly claim report prompted Iowa Workforce Development to schedule a fact-finding interview for May 23, 2019. Iowa Workforce Development mailed appropriate notice to Ms. Swailes on May 16, 2019. The notice arrived at Ms. Swailes' mailbox in a timely manner. Ms. Swailes was in the habit of collecting her mail from her mailbox about once per week. Ms. Swailes did not collect the notice of the fact-finding interview from her mailbox until after the fact-finding interview had occurred and after she received a May 24, 2019 decision that denied benefits for the week that ended May 11, 2019. At the time of the fact-finding interview, the Benefits Bureau deputy called Ms. Swailes phone number, but Ms. Swailes did not answer the deputy's call. The deputy left a voicemail message for Ms. Swailes. Ms. Swailes was in the habit of not listening to voicemail messages and did not listen to the voicemail message until after she received May 24, 2019 decisions that denied benefits for the week that ended May 11, 2019 and that denied benefits for the period that began May 19, 2019 based on the failure to report

for the fact-finding interview. On May 30, 2019, Ms. Swailes filed her appeal from the May 24, 2019 decisions and explained in her appeal the error she had made in her weekly report for the week that ended May 11, 2019.

REASONING AND CONCLUSIONS OF LAW:

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. Iowa Administrative Code rule 871-24.2(1)(e). 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 Administrative Code rule 871-24.23(11).

Ms. Swailes failed to report as directed for the fact-finding interview set for May 23, 2019. Ms. Swailes did not have good cause for failing to collect her mail in a timely manner or for failing to review her voicemail messages in a timely manner. Ms. Swailes did not take steps to resolve the failure to report and the underlying weekly claim reporting issue until she filed her appeal on May 30, 2019. Ms. Swailes is not eligible for benefits for the benefit week of May 19-25, 2019. Because Ms. Swailes took steps to resolve the issue during the next benefit period that began May 26, 2019. Ms. Swailes is eligible for benefits for the period beginning May 26, 2019, provided she meets all other eligibility requirements.

This matter will be remanded for Benefits Bureau review of Ms. Swailes ability to work and availability for work, including work search, for the period beginning June 23, 2019, assuming Ms. Swailes continues to make weekly benefits.

DECISION:

The May 24, 2019, reference 04, is modified as follows. The claimant failed to report as directed during the benefit week that ended May 25, 2019 and is not eligible for benefits for that week. The claimant is eligible for benefits for the period beginning May 26, 2019, provided she meets all other eligibility requirements.

This matter is remanded for Benefits Bureau review of the claimant's mental ability to work and availability for work, including work search, for the period beginning June 23, 2019.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs