

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD A PETERSON**  
Claimant

**APPEAL NO. 11A-UI-04261-M2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 06/20/10**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available  
871 IAC 24.2(1)e – Failure to Report

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated March 21, 2011, reference 04, which held claimant not able and available for work due to a failure to report. Benefits were denied effective March 10, 2011. After due notice, a telephone conference hearing was held on April 23, 2011.

**ISSUE:**

The issue in this matter is whether claimant failed to report and thus is not able and available.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds:

The claimant was directed to report. The claimant failed to report as directed, as he was physically unable to due to illness or injury. As of the date of the appeal letter, he still was not able and available.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Code section 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".

The claimant was sent a notice to report. He was not, and still is not, able and available due to illness or injury. Thus, he is not able and available for work. If circumstances change such that the claimant becomes able and available, the claimant should notify his local office of the change in circumstances, as the disqualification is week-to-week until removed.

**DECISION:**

The decision of the representative dated March 21, 2011, reference 04, is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective March 10, 2011.

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Stan McElderry  
Administrative Law Judge

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Decision Dated and Mailed

srm/kjw