

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOHN S ERDOESY
Claimant

APPEAL 17A-UI-03160-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/15/17
Claimant: Appellant (2)**

Iowa Code § 96.4(3) - Able and Available
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report
Iowa Admin. Code r. 871-24.23(11) – Failure to Report

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 6, 2017, (reference 06) unemployment insurance decision that denied benefits based upon a failure to report. The claimant was properly notified about the hearing. A telephone hearing was held on April 13, 2017. The claimant participated personally. The administrative law judge took official notice of the administrative records and would note fact-finding documents (including a letter of inquiry based upon the reference 06 decision) were not available. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: The administrative record does not contain a notice to report, consistent with the initial decision date, nor do records reflect a single party, fact-finding interview prior to the reference 05 initial decision. However, the claimant reported (and the administrative record confirms) that he received several notices to report associated with other decisions were mailed to the claimant at his last known address. The claimant indicated he completed each one, and mailed them collectively in one envelope. Upon receiving the unfavorable decision, the claimant called IWD to explain he had submitted all notice to reports, and learned some were received but for an unknown reason, the Agency did not receive a completed notice to report regarding the reference 05 issue.

The claimant mistakenly pushed the button indicating he was not able and available for work. Upon receipt of the initial decision, he called IWD to correct the record.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and the claimant has established a good cause reason for having failed to report as directed.

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".

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.

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 account at a financial institution 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 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.

The claimant received multiple notices to report, for several issues, responded to the notices and mailed them in one envelope to the Agency in a timely manner. Based on the evidence presented, the appellant made a good faith effort to respond to the notice of report in a timely

manner but it was not received. Immediately upon receipt of information to that effect, the claimant contacted IWD to resolve the matter. Since he responded but IWD did not receive the notice, claimant has established a good cause reason for failing to report as directed, benefits are allowed, provided he is otherwise eligible.

DECISION:

The March 6, 2017, (reference 06) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are allowed effective February 26, 2017, provided he is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs