

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MEGAN L SCHULTZ**  
Claimant

**APPEAL 20A-UI-01886-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWAWORKS**

**OC: 12/08/19**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(7) – Reemployment services  
Iowa Admin. Code r. 871-24.6 – Profiling for reemployment services  
Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits  
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report  
Iowa Code § 96.4(3) – Available for work

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the February 26, 2020 (reference 04) unemployment insurance decision that found claimant was not eligible for unemployment benefits because claimant failed to report for a reemployment services appointment. The parties were properly notified of the hearing. A telephone hearing was conducted on March 18, 2020. The claimant participated personally. Becky Goodier, Reemployment Services Advisor, participated on behalf of Iowa Workforce Development (“IWD”).

The administrative law judge took official notice of the administrative records. Department Exhibits 1-6 were admitted into evidence. 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.

**ISSUES:**

Is the claimant available for work effective February 23, 2020?  
Did the claimant fail to report as directed by a department representative to participate in a reemployment services appointment or offer justifiable cause for their failure to do so?

**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 December 8, 2019. Claimant was selected to participate in a reemployment services appointment on February 10, 2020 (Department Exhibit D-1). Claimant had not previously participated in this appointment during this claim year.

Claimant received the initial notice directing her to attend reemployment services appointments on February 18 and 24, 2020 (Department Exhibits D-1 and D-2). She called IWD and made

contact with IWD to report she had the flu prior to the appointment on February 18, 2020 (Department Exhibit D-5). The claimant stated she contacted IWD on February 21, 2020 to report she would not be able to attend on February 24, 2020 due to the flu. IWD has no record of this call (Department Exhibit D-5, Goodier testimony).

The claimant had the flu from February 16-26, as she and all her family members fell ill. The claimant was rescheduled to attend her appointment on February 26, 2020 at 1:30 p.m. (Department Exhibit D-3). She denied getting a phone call that was made to remind her of the appointment (Department Exhibit D-3). The notice was mailed on February 19, 2020 (Department Exhibit D-3) and claimant denied receipt of it.

Upon learning her claim had been suspended due to missing the class, she contacted IWD and a new notice was mailed on March 17, 2020 for the claimant to attend her reemployment services appointment on March 31, 2020.

Claimant has been able to and available for work since February 23, 2020, except for the period of February 16-26, 2020 when she had the flu. Claimant has made appropriate employer contacts each week in which claimant has filed weekly-continued claims for benefits. Claimant has not refused any offers of work. Claimant has properly reported all wages, vacation pay, holiday pay, and pension pay earned for each weekly continued claim for benefits that has been filed.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did not provide justifiable cause for the failure to report as directed to participate in a reemployment services appointment. Benefits are denied effective February 23, 2020 and continuing until the claimant reports for this appointment.

Iowa Code § 96.4(7) provides:

Required findings.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

(7) The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Iowa Admin. Code r. 871-24.6(1-6) provides:

Reemployment services and eligibility assessment procedure.

(1) The department of workforce development will provide a program which consists of profiling claimants and providing reemployment services.

(1) Purpose.

a Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

(3) Reemployment services and eligibility assessment may include, but are not limited to, the following:

- a. An assessment of the claimant's aptitude, work history, and interest.
- b. Employment counseling regarding reemployment approaches and plans.
- c. Job search assistance and job placement services.
- d. Labor market information.
- e. Job search workshops or job clubs and referrals to employers.
- f. Résumé preparation.
- g. Other similar services.

(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause..

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.

b. Reserved.

This rule is intended to implement Iowa Code section 96.4(7).

Each week a claimant files a claim for benefits she must be able to and available for work. Iowa Code § 96.4(3). To maintain continued eligibility, a claimant shall report as directed by an authorized representative. 871 IAC 24.2(1)e. A claimant who fails to report as directed by notice mailed to the claimant is deemed unavailable for work. Iowa Admin. Code r. 24.23(11).

If the department identifies a claimant who is likely to exhaust benefits, in order to be eligible for weekly benefits a claimant must report as directed to participate in reemployment services. Iowa Code § 96.4(7). Unemployment insurance rules require a claimant to participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Iowa Admin. Code r. 871-24.6(6). Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services. *Id.* Justifiable cause for failure to participate includes an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service. *Id.* The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause. *Id.* Failure to report for the appointment, failure to contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause for missing the appointment, or failure to have justifiable cause for failing to report for the appointment means the claimant has failed to meet the availability requirements of the law. *Id.*

Inasmuch as the claimant notified IWD prior to her appointment on February 18 and that she could not attend due to the flu, she has established good cause in missing the February 18, 2020 appointment. She has however, also established was not able and available for work for the period of February 16-26, due to illness. See Iowa Admin. Code r. 871-24.22(1)a.

The administrative law judge is sympathetic to the claimant and her family having the flu. However, the evidence does not support that the claimant notified IWD prior to her February 24, 2020 appointment that she would not be able to attend, as required. IWD records do not reflect the claimant made contact as alleged, and even if the note was inadvertently omitted, the administrative law judge did not find it logical or credible that the claimant would report three days in advance of an appointment that she had the flu and would still be too sick and unable to attend, especially after reporting she had already been sick for five days. Further, the administrative law judge did not find the claimant's denial of receiving notice of the February 26, 2020 report to be credible.

The claimant received the notice and failed to report as directed. The claimant did not notify IWD of the reason claimant failed to report as directed. Claimant failed to present justifiable cause for her failure to report as directed for her reemployment services appointments on February 24 and 26, 2020. Accordingly, benefits are denied effective February 23, 2020 and continuing until the claimant reports for the reemployment services appointments.

**DECISION:**

The February 26, 2020 (reference 04) unemployment insurance decision is affirmed. The claimant has not provided justifiable cause for having failed to report for a reemployment services appointment. Benefits are denied effective February 23, 2020, and continuing until the claimant reports for the reemployment services appointment.



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March 27, 2020  
Decision Dated and Mailed

jlb/scn