

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROSA V MENDEZ
Claimant

APPEAL 21A-UI-02922-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC:12/20/20
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available/Work Search
Iowa Admin. Code r. 871-24.22(3) – Earnest and Active Search for Work
Iowa Admin. Code r. 871-24.23(28) – Work Search Warning

STATEMENT OF THE CASE:

The claimant/appellant, Rosa V. Mendez, filed an appeal from the January 6, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that warned claimant to make at least two work search contacts per week but did not deny benefits for the week ending December 26, 2020. Claimant’s appeal letter and administrative records were sufficient to resolve the issue and no hearing was held.

ISSUE:

Was the work search warning appropriate?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for benefits with an effective date of December 20, 2020. Claimant’s monetary record, directing her to make weekly job search contacts was not mailed until December 30, 2020 and claimant was issued a work search warning for the week ending December 26, 2020. The administrative record does not support claimant was notified of the requirement to complete an active job search prior to the warning decision dated January 6, 2021 being issued.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the work search warning was not warranted and shall be removed.

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 96.1A, subsection 38, paragraph "b", subparagraph (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. 871-24.23(28) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

Iowa Admin. Code r. 871-24.22(3) provides:

Earnestly and actively seeking work. Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. It is essential that the individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

In this case, claimant established a claim for benefits with an effective date of December 20, 2020. She was not given reasonable notice that she must conduct a work search warning. Claimant was otherwise able and available for work for the week ending December 26, 2020. Accordingly, the administrative law judge concludes the work search warning was not warranted under the conditions and shall be removed from her file.

DECISION:

The decision dated January 6, 2021 (reference 01) is reversed. The work search warning was not warranted and shall be removed from claimant's file.



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March 15, 2021
Decision Dated and Mailed

jlb/mh