

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELISA N TEGTMEIER
Claimant

APPEAL 17A-UI-06943-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/23/17
Claimant: Appellant (2)

Iowa Code § 96.6(2) – Timeliness of Appeal
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:

Elisa N. Tegtmeier (claimant) filed an appeal from the June 16, 2017, reference 04, unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was set for July 27, 2017. The claimant participated. Department's Exhibits D1 and D2 were received. Official notice was taken of the claimant's appeal letter.

ISSUES:

Is the appeal timely?
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: A notice was mailed to the claimant to be available for a call from IWD on June 14, 2017 about refusing an offer of work. She did not report because she forgot about the call. She contacted IWD the following day and was told the issue was related to ability to and available for work. The claimant willingly responded to the representative's questions. The underlying issue was later resolved by a fact-finding interview held on July 3, 2017 and the subsequent unemployment insurance decision dated July 6, 2017, reference 06.

On June 16, 2017, the unemployment insurance decision, reference 04, which denied benefits, was mailed to the claimant's last known address. Upon receiving the decision, the claimant contacted the customer service number on the decision. She was told the decision had been issued in error and the issue would be fixed. She was not told to file an appeal to the decision. The claimant then received other decision letters, up through reference 10. On July 10, 2017, she again contacted customer service and explained she had been told the issue would be fixed. At that time, she was advised to file an appeal while the issue was being reviewed. The claimant filed her appeal the same day.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely and the claimant has reported to IWD. Benefits are allowed.

Iowa Code section 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant's failure to file an appeal within the appeal period was solely because of incorrect information received from an IWD customer service advisor. She found out about the misinformation upon a second discussion with IWD customer service and she filed an appeal immediately. This delay was prompted by and perpetuated by the agency. See, Iowa Admin. Code r. 871-24.35(2). Therefore, the appeal shall be accepted as timely.

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 missed the IWD phone call as she forgot about it. However, she called the agency the following day and readily provided the information requested. The claimant did report to the agency. Benefits are allowed.

DECISION:

The claimant's appeal is timely. The June 16, 2017, reference 04, unemployment insurance decision is reversed. The claimant reported to the agency. The underlying issue was resolved by the unemployment insurance decision dated July 6, 2017, reference 09. Benefits are allowed effective June 11, 2017, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn