

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAURIE A CRAWFORD
Claimant

APPEAL 21A-UI-06627-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/27/20
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Eligibility – Able to, available for, work search
Iowa Admin. Code r. 871-24.2(1)e – Eligibility – A&A – Failure to report
Iowa Admin. Code r. 871-24.23(11) – Eligibility – A&A – Failure to report

STATEMENT OF THE CASE:

Claimant filed an appeal from the February 23, 2021 (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 13, 2021, at 11:00 a.m. Claimant participated. Iowa Workforce Development (IWD) participated through Brenda Tart, RESEA Career Planner. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is able to and available for work.
Whether claimant failed to report as directed by a department representative.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

On January 18, 2021, Iowa Workforce Development (IWD) mailed claimant a notice to report for a re-employment services assessment on February 2, 2021 at 3:30 p.m. at her local IowaWorks office. An insert enclosed with the notice stated that the assessment would be held via telephone instead of in person.

On February 2, 2021, claimant reported to her local IowaWorks office at 3:30 p.m.; claimant was denied entrance to IWD because claimant reported she had recently been exposed to Covid-19. Later that day, claimant spoke to an IWD representative via telephone and rescheduled the assessment for February 22, 2021 at 9:00 a.m. On February 3, 2021, IWD mailed claimant a new notice to report for her assessment on February 22, 2021 at 9:00 a.m. at her local IowaWorks office. An insert notified claimant that the assessment would be held via telephone instead of in person.

On February 22, 2021, claimant reported to her local IowaWorks office at 9:00 a.m. An IWD representative called claimant at the same time but received an automated message that the telephone number had been disconnected. The representative could not leave a voicemail

message for claimant. With the assistance of an IWD employee, claimant completed her registration on the computer. Claimant mistakenly believed that she was completing the assessment. Claimant did not complete the assessment.

On February 23, 2021, IWD issued a decision denying claimant benefits effective February 14, 2021, because she failed to participate in the assessment on February 22, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

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".

Iowa Admin. Code r. 871-24.2(1)e provides:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

1. Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

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.

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).

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.

Claimant did not participate in the assessment via telephone, because she mistakenly reported in person to her local IowaWorks office. Claimant made a good faith effort to participate in the assessment on two occasions. Claimant did not receive the telephone call from IWD to participate in the assessment on February 22, 2021. Claimant has established justifiable cause for failing to participate in the assessment and is able to and available for work. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The February 23, 2021 (reference 03) unemployment insurance decision is reversed. Claimant provided justifiable cause for having failed to report for the re-employment services assessment. Benefits are allowed effective February 14, 2021, provided claimant is otherwise eligible.



Adrienne C. Williamson
Administrative Law Judge
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May 21, 2021
Decision Dated and Mailed

acw/scn