

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHARLES W MASSNER
Claimant

APPEAL NO. 22A-UI-04300-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 08/01/21
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On February 7, 2022, Charles Massner (claimant) filed a timely appeal from the February 4, 2022 (reference 06) decision that denied benefits effective January 30, 2022, based on the deputy's conclusion that the claimant failed to appear as directed for a single-party fact-finding interview set for February 1, 2022, and therefore did not meet the availability requirement. After due notice was issued, a hearing was held on March 18, 2022. Claimant participated. The hearing in this matter was consolidated with the hearing in Appeal Number 22A-UI-04298-JT-T. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, NMRO, KFFV, the reference 02 and 03 decisions, and the work search records on the CID database.

ISSUES:

Whether the claimant failed to appear as directed for a single-party fact-finding interview set for February 1, 2022, and therefore did not meet the availability requirement effective January 30, 2022.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Charles Massner, established an original claim for benefits that was effective August 1, 2021. The claimant made weekly claims that included a weekly claim for the week that ended December 25, 2021. The claimant received benefits that included benefits for the week that ended December 25, 2021. When the claimant made his claim for the week that ended December 25, 2021, he responded that he was not able to work and/or not available for work. The claimant's weekly report for the week that ended December 25, 2021 prompted Iowa Workforce Development to schedule a fact-finding interview for February 1, 2022 to discuss the claim for the week that ended December 25, 2021. IWD mailed the notice to the claimant on January 24, 2022. The claimant was aware of the fact-finding interview, missed the call from the deputy, and then was unable to connect with the deputy. The claimant had discontinued his claim for benefits after he filed a weekly claim for the week that ended January 8, 2022.

The issue with the weekly claim for the week ending December 25, 2021 was addressed in the February 4, 2022 (reference 05) decision, which denied benefits for the week that ended December 25, 2021. The denial was affirmed in Appeal Number 22A-UI-04298-JT-T.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.22 provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

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. Iowa Administrative Code rule 871-24.2(1)(e). 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. Iowa Administrative Code rule 871-24.23(11).

The evidence in the record indicates the claimant did indeed fail to appear for the February 1, 2022 fact-finding interview. However, there was nothing about the January 24, 2022 notice of the February 1, 2022 fact-finding interview that put the claimant on notice that if he did not appear for the fact-finding interview he would be disqualified for benefits for a subsequent period. In addition, the claimant had discontinued his claim with the week that ended January 8, 2022 and, accordingly, was thereafter not subject to the able and available requirement. No disqualification shall enter in connection with the failure to appear for the February 1, 2022 fact-finding interview.

DECISION:

The February 4, 2022 (reference 06) decision is REVERSED. The claimant's failure to appear for the February 1, 2022 fact-finding interview did not subject the claimant to an availability disqualification. In any event, the claimant had discontinued his claim with the week that ended January 8, 2022 and, accordingly, was thereafter not subject to the able and available requirement. No disqualification shall enter in connection with the failure to appear for the February 1, 2022 fact-finding interview.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in dark ink on a light gray rectangular background.

James E. Timberland
Administrative Law Judge

March 31, 2022
Decision Dated and Mailed

jet/kmj