

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSE A MARCELENO
Claimant

APPEAL 22A-UI-03985-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/19/21
Claimant: Appellant (4)**

Iowa Code § 96.4(3) - Ability to and Availability for Work
Iowa Admin. Code r. 871-24.2(1)(e) - Able & Available - Report as Directed by Department
Iowa Admin. Code r. 871-24.23(11) - Able & Available - Failure to Report as Directed
Iowa Admin. Code r. 871-24.3 - Able & Available - Identity Verification

STATEMENT OF THE CASE:

Claimant appealed the January 28, 2022, (reference 01) unemployment insurance decision that allowed benefits effective January 23, 2022, based upon a determination that claimant initially failed to provide verification of his identity but subsequently did so. Claimant was notified of the hearing. A telephone hearing was held on March 15, 2022. The claimant participated. Spanish interpreter Alberto, #14434 interpreted in the hearing. The Department did not participate. Judicial notice was taken of the administrative file.

ISSUE:

Is the claimant able to and available for work?
Did the claimant timely provide verification of his identity?
Did the claimant fail to report as directed by a department representative?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the undersigned finds:

Claimant filed a claim for unemployment insurance benefits effective December 19, 2021. The Department sent a letter on December 16, 2021, notifying claimant that they were unable to verify his identity. It further notified him that if he did not submit proof of identity by December 22, 2021, "benefits may be delayed or denied." It further notified him he must submit proof of identity even if the due date had passed.

Claimant did not receive that notification in the mail. Nor was a decision issued finding claimant ineligible for benefits due to being unable to verify claimant's identity. Claimant only became aware of the issue when he went to a local workforce development office to find out why he had not received any benefits yet. It was at that time he learned of the issue and, submitted documents proving his identity on January 27, 2022. The claimant's unemployment insurance claim was unlocked at that time. The agency issued a decision finding claimant eligible for

benefits effective January 23, 2022, as the requested identity verification documents were provided. Benefits were allowed January 27, 2022, effective January 23, 2022, and claimant was told he could file an appeal regarding the five payments missed.

Claimant filed a claim for benefits each week from the benefit week ending December 25, 2021 and continuing through the benefit week ending March 12, 2022, with five weeks being disqualified ending January 22, 2022. Claimant is able and available for work as he verified his identity immediately upon learning it was an issue, on January 27, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 28, 2022 (reference 01) decision that found claimant eligible for benefits effective January 23, 2022, based upon a finding claimant was disqualified from benefits due to failing to prove his identity, but since provided requested documents to verify his identity is MODIFIED in favor of appellant. Claimant is eligible for benefits for each week filed.

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...

Iowa Admin. Code r. 871-24.3 provides:

A claim will not become valid until the identity of the claimant has been verified by the department.

(1) Upon the filing of a claim, notification shall be provided to the claimant if the claimant's identity was not verified.

(2) If the agency is unable to verify the claimant's identity in the claim application, the claimant must provide approved documents. Approved documents must include at least one document containing a social security number. The department shall determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.

(3) The claimant's identity will not be considered verified until approved documents have been provided. The claim shall remain locked from issuance of benefits until the claimant has provided the approved documents to verify identity.

(4) After filing a claim application, the claimant shall not be eligible for benefits for any week until approved documents are provided to verify identity.

(5) Approved documents must be provided or postmarked by Saturday at 11:59 p.m. of the week in which the approved documentation is due, and the claim shall be unlocked for all weeks following the most recent effective date of the claim application.

(6) If required documents are provided in any subsequent weeks following the due date, the claimant shall be eligible, provided there are no other outstanding issues with the claim, as of the Sunday of the week the claimant's identity was verified.

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.

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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

The administrative law judge finds claimant able and available for work during the weeks filed. The administrative law judge further finds any delay in identity verification was due to error or delay of the Department or USPS. Claimant immediately submitted documents proving his identity when he learned it was an issue and benefits were allowed from that date. The administrative law judge finds benefits should be allowed from the original claim date, given the delay in identity verification was due to no fault of claimant.

DECISION:

The January 28, 2022, (reference 01) unemployment insurance decision that found claimant eligible for benefits effective January 23, 2022, based upon a finding claimant was disqualified from benefits due to failing to prove his identity, but since provided requested documents to verify his identity is **MODIFIED** in favor of appellant. Claimant is available for work during the five-week period from December 25, 2021 - January 22, 2022 where he was disqualified. Benefits are allowed for each of those weeks.



Darrin T. Hamilton
Administrative Law Judge

March 28, 2022

Decision Dated and Mailed

dh/abd