

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JOHN WERNKE**  
Claimant

**APPEAL 20A-UI-14586-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 07/12/20**  
**Claimant: Appellant (1)**

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:**

John Wernke, the claimant/appellant, filed an appeal from the November 6, 2020, (reference 03), unemployment insurance decision that warned him to make at least two work-search contacts per week but did not deny benefits. After due notice was issued, a telephone conference hearing was scheduled to be held on January 12, 2021. Mr. Wernke registered for the hearing but no hearing was held as there was sufficient information in the appeal letter and administrative record to resolve the matter without testimony.

**ISSUE:**

Was the work search warning appropriate?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Wernke filed a claim for unemployment insurance benefits with an effective date of July 12, 2020. Mr. Wernke did not make any work-search contacts for the week-ending October 31, 2020 due to a being hospitalized. This is Mr. Wernke's first warning.

**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 96.1 A, 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 law requires Mr. Wernke to actively and earnestly search for work each week. Mr. Wernke did not do that for the week-ending October 31, 2020. Therefore, the warning was appropriate. Since Mr. Wernke has not had any previous warnings, benefits are allowed.

**DECISION:**

The November 6, 2020, (reference 03) unemployment insurance decision is affirmed. Mr. Wernke did not make an active and earnest search for work for the week-ending October 31, 2020. Therefore, the warning was appropriate. Benefits are allowed, provided Mr. Wernke is otherwise eligible.



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January 29, 2021  
Decision Dated and Mailed

dz/scn