

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KATHRYN L SCHURMAN
Claimant

APPEAL NO. 14A-UI-07416-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/15/14
Claimant: Appellant (1)**

Iowa Code § 96.4-3 – Able and Available
871 IAC §24.23(11) – Failure to Report

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 11, 2014, reference 02, which held claimant not able and available for work after she didn't report to the local IWD office as directed. After due notice, a hearing was scheduled for and held on August 11, 2014. Claimant participated personally. Exhibit One was admitted into evidence.

ISSUES:

Whether claimant is able and available for work.

Whether claimant failed to report as directed by a department representative.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant has been residing at the above reference address for all times pertinent to this matter. Claimant has consistently been receiving mail from Des Moines and from Iowa Workforce Development. Claimant stated that she did not receive the document which directed her to report to the IWD local office to register. Claimant registered and has maintained contact with IWD since she found out procedures to be followed.

At all times since claimant first registered with IWD she has been able and available and consistently filling out application for work.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.23(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.

The method of reporting and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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 financial institution's account 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. 871-24.22(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Claimant is deemed to be able to work. In order to be deemed available to work, claimant must meet availability requirements. One of those requirements is that a claimant must report as directed by a workforce representative. Claimant has admitted she regularly receives mail at her address. She has denied receipt of this document that was mailed by an IWD representative. As claimant has not met this requirement, benefits are denied.

DECISION:

The decision of the representative dated July 11, 2014, reference 02 is affirmed. Claimant is not deemed available for work as she did not report as directed to Workforce Development in a timely manner.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

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