

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERRY E. PINTER
Claimant

APPEAL 23A-UI-10476-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVICES**

**OC: 09/17/23
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Available for work
Iowa Code § 96.4(7) – Reemployment services
Iowa Admin. Code r. 871-24.6 – Profiling for reemployment services
Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report

STATEMENT OF THE CASE:

On November 7, 2023, the claimant/appellant filed an appeal from the November 3, 2023 (reference 04) unemployment insurance decision that found claimant was not eligible for unemployment benefits effective October 29, 2023. The Iowa Workforce Development representative determined the claimant failed to report for a reemployment services appointment on November 2, 2023. The parties were properly notified of the hearing. A telephone hearing was held on November 28, 2023. The claimant participated personally. Iowa Workforce Development (“IWD”) did not call in to participate. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUES:

- I. Did the claimant fail to report as directed by a department representative to participate in a reemployment services appointment?
- II. If so, did the claimant offer justifiable cause for the failure to do so?
- III. Was the claimant available for work effective October 29, 2023?

FINDINGS OF FACT:

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

The claimant filed a claim for unemployment insurance benefits with an effective date of September 17, 2023. The claimant was selected to participate in a reemployment services telephone appointment on November 2, 2023. Claimant was notified of this appointment during claimant’s telephone appointment with the RCM. Claimant mistakenly thought the appointment was November 7, 2023. Claimant received a subsequent email informing claimant of the appointment on November 2, 2023. Claimant did not review the email. Claimant received a

notice that they were denied benefits beginning October 29, 2023 due to missing the appointment. Claimant received the notice on November 6, 2023. Claimant immediately contacted the RCM and rescheduled the appointment for November 16, 2023. Claimant is allowed benefits beginning November 5, 2023. (Decision dated November 17, 2023, reference 05).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not provide justifiable cause for the failure to report as directed to participate in a reemployment services appointment. Benefits are denied effective October 29, 2023 through November 4, 2023. Benefits are allowed effective November 5, 2023, provided claimant is otherwise eligible.

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 Code section 96.4(7) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

7. The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Iowa Admin. Code r. 871-24.6 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.

(2) 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.

(7) Eligibility assessment procedure.

- a. Before an individual has claimed five weeks of intrastate benefits, the workforce development center shall receive a computer-selected list of individuals claiming benefits within the target population for review.
- b. No eligibility assessment will be performed on an individual unless monetary eligibility and nonmonetary eligibility are established.
- c. Once selected for an initial or subsequent eligibility assessment, claimants are required to participate in all components of the assessment as determined by the department.
- d. A Notice to Report shall be sent by the workforce development center to an individual who is in an active status at the time of its printing. If the individual does not respond, the department must issue an appropriate failure to report decision and lock the claim to prevent payment.
- e. Selected claimants must report in person to the designated workforce development center to receive staff-assisted services for the initial assessment.
- f. Before an administrative law judge can rule on a disqualification for failure to report at an Iowa workforce development center as directed, there must be evidence to show that the individual was required to report for an interview.

(8) Conducting the first eligibility assessment interview.

- a. All available evidence must be examined to detect potentially disqualifying issues.
- b. The individual's need for advice, assistance or instructions must be determined and conveyed to the individual.
- c. The interview must convey to the individual the requirements that must be satisfied to maintain eligibility.
- d. This advice, assistance or instruction constitutes an understanding and agreement between the individual and the unemployment insurance representative at the conclusion of the interview regarding the individual's willingness and ability to eliminate any barriers to obtaining reemployment which otherwise would result in referral for adjudication.
- e. The individual shall be advised of what constitutes an acceptable effort to obtain reemployment in accordance with state policy, with consideration for local labor market information and the individual's occupation.
- f. The final objective of the interview is to determine whether a subsequent interview is needed. This determination shall be based on expected return to work date, job openings in the area, local labor market conditions, and other.

This rule is intended to implement Iowa Code section 96.4(7).(emphasis added).

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.

(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.

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.

If the department identifies a claimant who is likely to exhaust benefits, in order to be eligible for weekly benefits a claimant must report as directed to participate in reemployment services. Iowa Code § 96.4(7). Unemployment insurance rules require a claimant to 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. Iowa Admin. Code r. 871-24.6(6). 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. *Id.* Justifiable cause for failure to participate includes 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. *Id.* The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause. *Id.* Failure to report for the appointment, failure to contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause for missing the appointment, or failure to have justifiable cause for failing to report for the appointment means the claimant has failed to meet the availability requirements of the law. *Id.*

The claimant was informed of the date of the meeting on the phone and also through subsequent email. Claimant misheard the date and chose not to review the email confirming the date of the second appointment. The claimant received the notice and failed to report as directed. The claimant failed to present justifiable cause for failure to report as directed for a reemployment services appointment. As a result, claimant is denied benefits from October 29, 2023, through November 4, 2023.

DECISION:

The November 3, 2023 (reference 04) unemployment insurance decision is affirmed. The claimant has not provided justifiable cause for having failed to report for a reemployment services appointment. Benefits are denied effective October 29, 2023.



Carly Smith
Administrative Law Judge

November 30, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.