IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

HORACIO BERBER HERNANDEZ Claimant **IOWA WORKFORCE DEVELOPMENT DEPARTMENT**	**APPEAL 22A-UI-04702-AD-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 12/26/21** **Claimant: Appellant (4)**

Iowa Code § 96.6 – Filing
Iowa Admin. Code r. 871-24.3(2) –Identity Verification

STATEMENT OF THE CASE:

On February 15, 2022, Horacio Berber Hernandez (claimant/appellant) filed a timely appeal from the Iowa Workforce Development ("IWD") decision dated February 14, 2022, (reference 02) that found claimant eligible for unemployment insurance benefits effective February 6, 2022 based on a finding claimant failed to verify their identity prior to that date.

After due notice was issued, a telephone conference hearing was held March 28, 2022. Claimant participated personally and with the assistance of a Spanish-language interpreter. Official notice was taken of the administrative record.

The hearing notice did not list Iowa Code § 96.6. Claimant waived the ten-day notice period on that issue.

ISSUES:

Whether claimant timely provided verification of identity.

FINDINGS OF FACT:

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

Claimant initially opened a claim for unemployment insurance benefits on December 26, 2021. Claimant filed the claim online but his identity was not verified at that time. Claimant does not recall being prompted to verify his identity as part of the online filing process.

IWD mailed a notice to claimant on December 29, 2021, notifying him of the need to verify his identity and warning that failing to do so may result in benefits being delayed or the claim being cancelled. The notice gave a deadline of January 4, 2022 .Claimant did not receive the notice in the mail until February 4, 2022, well after the deadline had passed. Claimant went to a local IWD office the following Monday, February 7, 2022, and provided the necessary documents to verify his identity at that time. Claimant's unemployment insurance claim was unlocked effective with that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated February 14, 2022, (reference 02) that found claimant eligible for unemployment insurance benefits effective February 6, 2022 based on a finding claimant failed to verify their identity prior to that date is MODIFIED in favor of appellant.

Iowa Code section 96.6 provides in relevant part:

> 1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

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.
>
> This rule is intended to implement Iowa Code section 96.6.

Beginning May 14, 2019, claimants filing initial and additional claims were required to go through an identity verification process. This can be done at the time of filing through the LexisNexis Instant ID program. If a claimant declines to verify their identity through this process or if their identity cannot otherwise be verified, they should receive a message similar to the following during the online filing process:

Unemployment Insurance Claim Confirmation

Your claim confirmation number is ███████████

You have successfully filed your unemployment insurance claim. The above confirmation number is proof that you have filed your claim. Please keep a record of your confirmation number. If you provided a valid e-mail address, you will receive an e-mail confirmation when the processing of your online claim has been completed. If additional information is needed, you will be contacted by phone or mail. If this claim is your initial application for unemployment benefits, you will receive instructions and other important documents in the mail. It is your responsibility to read all documents you receive.

We were not able to verify your identity. You may not receive benefits and your claim may be cancelled if you do not verify your identity. If we do not receive the required documents by Thursday, February 28, 2019, your benefits may be delayed and your claim may be cancelled.
You must provide the appropriate documents. Click here to see document options.

Send your documents to us one of the following ways:

1. Mail the appropriate documents with a letter requesting to be verified, to the following address:

Iowa Workforce Development
Attn: Benefits Bureau
PO Box 10332
Des Moines, Iowa 50319-0209

2. Bring your documentation to an American Job Center. To view the American Job Center locations, click here.

You will be able to file a weekly continued claim for benefits with an unverified identity.

If a claimant's identity is not verified during the application process IWD also mails a notice to the claimant one business day after the claim application is processed. This notice again notifies them that their identity was not verified. That notice also warns them that failure to verify their identity will result in benefits being delayed or the claim being cancelled; provides information on how to verify their identity; and gives a deadline for doing so.

In this case, claimant credibly testified that he received no notice of an issue with verifying his identity until February 4, 2022. Claimant acted almost immediately to verify his identity once he learned of the issue. Notably, IWD did not issue a decision with appeal rights from the date the claim was locked due to the identity verification issue. It did not notify claimant of the disqualification for this reason until the February 14, 2022 (reference 02) decision was issued.

Claimant's failure to provide the required documentation in a timely manner was due to IWD error or misinformation or error or delay of USPS. It would be fundamentally unfair and contrary to basic to principles of due process to deny unemployment insurance benefits where, as here, claimant was not on notice of the denial of benefits and provided with notice and opportunity to cure the issue leading to denial. For these reasons, and because claimant did verify his identity as soon as he was aware of the issue, the administrative law judge finds the claim is valid from the original claim date.

DECISION:

The decision dated February 14, 2022, (reference 02) that found claimant eligible for unemployment insurance benefits effective February 6, 2022 based on a finding claimant failed to verify their identity prior to that date is MODIFIED in favor of appellant. The claim was valid and benefits are allowed from the effective date of the claim, provided claimant is not otherwise disqualified or ineligible.

Andrew B. Duffelmeyer
Administrative Law Judge
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March 31, 2022
Decision Dated and Mailed

abd/abd