

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

NICK J VERTHEIN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 24A-UI-02832-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/14/24
Claimant: Appellant (6)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action

STATEMENT OF THE CASE:

Nick J. Verthein, the claimant/appellant,¹ appealed the Iowa Workforce Development February 29, 2024 (reference 02) unemployment insurance (UI) decision. IWD denied Mr. Viveros REGULAR (state) UI benefits as of February 25, 2024 because IWD concluded that IWD mailed him a notice to report to IWD for an assessment, but he did not do so. On March 15, 2024, the Iowa Department of Inspections, Appeals and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Verthein and IWD for a telephone hearing scheduled for April 4, 2024 at 10:00 a.m.

Before the scheduled hearing, IWD mailed Mr. Verthein a different UI decision dated March 27, 2024 (reference 06). In this decision, IWD found Mr. Verthein eligible for REGULAR (state) UI benefits as of February 25, 2024.

The administrative law judge did not hold a hearing because there is sufficient information in the administrative record to resolve the appeal without testimony. The administrative law judge took official notice of the administrative record.

ISSUES:

Should IWD's most recent UI decision be affirmed?
Should Mr. Viveros' appeal be dismissed as moot?

FINDINGS OF FACT:

These findings of fact are based on the relevant agency documents relating to Mr. Verthein and his appeal. The February 29, 2024 (reference 02) UI decision denied Mr. Verthein REGULAR (state) UI benefits as of February 25, 2024 because IWD concluded that IWD mailed him a notice to report to IWD for a reemployment and eligibility assessment on February 27, 2024, but he did not do so. Mr. Verthein appealed this decision.

¹ Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

Before the scheduled April 4, 2024 appeal hearing, IWD mailed Mr. Verthein a different UI decision dated March 27, 2024 (reference 06). In this decision, IWD found Mr. Verthein eligible for REGULAR (state) UI benefits as of February 25, 2024, as long as no other decision denies him UI benefits, because IWD concluded he later participated in the assessment. On March 27, IWD requested that Mr. Verthein's appeal be dismissed since he is now eligible for UI benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Verthein's appeal is moot, and the March 27, 2024 (reference 06) UI decision is affirmed.

Generally, courts and administrative tribunals do not decide issues or cases when the underlying issue or case is moot.² "An issue or case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent."³ That means an issue or case is moot if the issue or case has been resolved and there is nothing left to be decided in an appeal.

The decision Mr. Verthein appealed that denied him REGULAR (state) UI benefits as of February 25, 2024 was changed in his favor. The March 27, 2024 (reference 06) UI decision settled the issue in Mr. Verthein's appeal and settled the issue in his favor. As a result, there is no issue for the administrative law judge to decide.

Mr. Verthein's appeal is moot, and his appeal of the February 29, 2024 (reference 02) UI decision is dismissed. The most recent UI decision, dated March 27, 2024 (reference 06), is affirmed. This means the February 29, 2024 (reference 02) UI decision is no longer in effect, and the March 27, 2024 (reference 06) UI decision remains in effect.

DECISION:

Mr. Verthein's appeal is DISMISSED AS MOOT. The March 27, 2024 (reference 06) UI decision is AFFIRMED.

The hearing scheduled for April 3, 2024 at 10:00 a.m. is CANCELLED.



Daniel Zeno
Administrative Law Judge

March 28, 2024
Decision Dated and Mailed

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² *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005).

³ *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983).

NOTE TO MR. VERTHEIN:

- You have a different appeal hearing scheduled for April 4, 2024 at 10:01 a.m. This hearing is about the IWD March 5, 2024 (reference 03) UI decision that warned you to do job searches. This hearing is not cancelled.

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:

**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:

**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.