

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

DAVID QUACKENBUSH
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL NO. 24A-UI-02762-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/11/24
Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.4(7) – Re-employment Services
871 IAC 24.2(1)(e) – Failure to Report as Directed

STATEMENT OF THE CASE:

David Quackenbush (claimant) filed a timely appeal from the February 29, 2024 (reference 02) decision that denied benefits effective February 25, 2024, based on the deputy's conclusion the claimant failed to report as directed for reemployment and eligibility assessment on February 27, 2024 and, therefore, did not meet the availability requirement effective February 25, 2024. After due notice was issued, a hearing was held on April 3, 2024. Claimant participated. The Appeals Bureau provided notice of the hearing to Iowa Workforce Development reemployment services, but IWD did not participate in the hearing. IWD submitted proposed exhibits labeled 1 through 4 and a cover page that the administrative law judge labeled Exhibit 5. Exhibits 1 through 5 and A were received into evidence. The administrative law judge took official notice of the following IWD administrative records: KCCO, DBRO, and the reference 04 decision.

ISSUES:

Whether the claimant failed to report as directed by Iowa Workforce Development for reemployment services on February 27, 2027 and, therefore, did not meet the available for work requirement effective February 25, 2024.

FINDINGS OF FACT:

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

David Quackenbush (claimant) established an original claim for benefits that was effective February 11, 2024. The claimant made weekly claims for each of the weeks between February 11, 2024 and March 23, 2024. The weekly claims included a weekly claim for the week that ended March 2, 2024.

On February 20, 2024, Iowa Workforce Development Reemployment Case Management (RCM) mailed a Notice to Report to the claimant's Iowa City last-known address of record. The notice

directed the claimant to be available for an RCM telephonic appointment at his phone number of record at 3:30 p.m. on February 27, 2024. The notice was delivered in a timely manner to the claimant's mailbox at the address of record. The claimant was out of town at the time the notice was delivered to his mailbox. The claimant had traveled to Utah on February 10, 2024. The claimant had no arrangements in place to deal with time-sensitive correspondence that might be delivered to his mailbox during his two-week absence. The claimant returned to Iowa City on the evening of February 26, 2024. The claimant waited until 5:00 p.m. on February 27, 2024 to collect the mail that had been accumulating in his mailbox for two weeks. The Notice to Report was amongst the accumulated mail.

At 3:30 p.m. on February 27, 2024, an IWD RCM staff member called the claimant's number for the scheduled RCM appointment. The claimant missed the call. Because the claimant had not set up voicemail on his phone, the IWD representative would not have been able to leave a voicemail message.

On February 28, 2024, the claimant called the contact number on the Notice to Report, but was unable to speak with the RCM representative named on the Notice to Report. That person was Corey Johnson.

On February 29, 2024, Iowa Workforce Development mailed the February 29, 2024 (reference 02) decision that denied benefits effective February 25, 2024, based on the RCM representative's conclusion the claimant failed to report as directed for reemployment and eligibility assessment on February 27, 2024 and, therefore, did not meet the availability requirement effective February 25, 2024.

After the claimant made his initial call to the RCM representative, he called on subsequent days, requested to speak with Mr. Johnson and was told Mr. Johnson was not available. The claimant then called the Benefits Bureau customer service number and was told that the matter could only be resolved by speaking with Mr. Johnson.

On Friday, March 8, 2024, the claimant filed his appeal from the reference 02 decision. On that same day, the claimant drove to the Iowa City IowaWORKS Center and spoke with Mr. Johnson. At that time, Mr. Johnson advised that he had been away from the office and for that reason had not returned voicemail messages the claimant had left. Mr. Johnson told the claimant that because the claimant had filed an appeal, Mr. Johnson could not take further action on the matter.

On March 29, 2024, the claimant met with an RCM representative to make up the meeting he had missed on February 27, 2024.

On April 1, 2024, IWD mailed a reference 04 decision that allowed benefits effective March 3, 2024, provided the claimant was otherwise eligible, based on the IWD representative's determination that the claimant had been disqualified for benefits due to a failure to report as directed for reemployment and eligibility assessment but since that time had participated in the assessment. The reference 04 decision effectively limited the failure to report disqualification period to the week of February 25, 2024 through March 2, 2024.

REASONING AND CONCLUSIONS OF LAW:

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(1-6) 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.

(1) 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.

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:

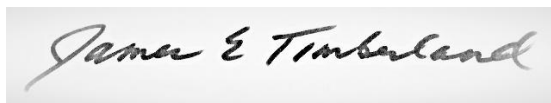
3. The individual is able to work, is available for work, and is earnestly and actively seeking work. ...

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. Iowa Administrative Code rule 87124.2(1)(e). 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 Administrative Code rule 87124.23(11).

The claimant failed to report as directed by Iowa Workforce Development for the February 27, 2024 reemployment case management appointment. IWD had provided appropriate notice to the claimant and the USPS had delivered the notice in a timely manner to the address of record. Due to the failure to report, the claimant did not meet the availability requirement during the week of February 25 through March 2, 2024. The claimant is not eligible for benefits for that week. Through the reference 04 decision, IWD limited the failure to report disqualification to the week that ended March 2, 2024. Nothing in this decision disturbs the reference 04 decision.

DECISION:

The February 29, 2024 (reference 02) is MODIFIED in favor of the claimant to acknowledge that the failure to report pertained to a Reemployment Case Management (RCM) appointment and to limit the relevant disqualification to the week that ended March 2, 2024, as reflected in the reference 04 decision. The claimant failed to report as directed by Iowa Workforce Development for the February 27, 2024 reemployment case management appointment and therefore did not meet the availability requirement during the week of February 25 through March 2, 2024. The claimant is not eligible for benefits for that week. Through the reference 04 decision, IWD limited the failure to report disqualification to the week that ended March 2, 2024. Nothing in this decision disturbs the reference 04 decision.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

April 11, 2024
Decision Dated and Mailed

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 Ave
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>.

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 Ave
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.