

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRIA A BURTON
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 22A-UI-00459-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/07/21
Claimant: Appellant (2R)**

Iowa Code § 96.4(3) - Eligibility - A&A - Able to and available for work
Iowa Code § 96.4(3) - Eligibility - A&A – Active work search
Iowa Admin. Code r. 871-24.22(3) - Eligibility - A&A - Minimum Job Contacts

STATEMENT OF THE CASE:

The claimant/appellant, Bria Burton, filed an appeal from the November 29, 2021, (reference 02) unemployment insurance decision that gave claimant a warning that she is required to make a minimum of two job contacts each week claiming unemployment benefits. The week ending November 20, 2021, claimant made zero job contacts. Claimant was warned she may be disqualified for any future week she claims benefits and makes fewer than two job contacts.

Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for January 26, 2022, at 11:05 AM. The hearings were consolidated. Claimant participated. The Department did not participate. No exhibits were submitted. Judicial notice was taken of the administrative file. Claimant had an attachment to her appeal.

ISSUES:

Did the claimant make an adequate work search for the week ending November 20, 2021?
Was the warning appropriate?
Was the claimant able to and available for work?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the week ending November 20, 2021. According to the claimant's record of work search and the administrative record show she did make one work search for that week, in person or by mail, on November 17, 2021, at Indian Hills Community College and learned they were not hiring. Claimant's attachment is her application for a swim instructor at the Ottumwa YMCA, submitted November 16, 2021. She learned that due to COVID-19, the YMCA was not hiring for that position at the time.

Claimant received the notice from IWD that she must make at least two work searches per week, either in person or by resume, and thought she had entered both searches, but made an error in the reporting system when filing her weekly claim. The week ending November 20, 2021, was

claimant's second week of submitting her claim information. Claimant has provided a copy of the second work search for the week ending November 20, 2021.

December 25, 2021, through January 3, 2022, claimant was ill and not able to and not available to work. Claimant was otherwise able and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant has made an active and earnest search for work, was able and available for work during the week ending November 20, 2021, and the warning was not appropriate.

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 Admin. Code r. 871-24.23(1) and (28) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

Claimant has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending November 20, 2021. One week was actually reported and claimant thought they reported the second search as well. Accordingly, the warning was not appropriate.

Claimant did advise she ill for the period of December 25, 2021, to January 3, 2021, which would have prevented her from working, if she had held a job.


DECISION:

The November 29, 2021, (reference 02) unemployment insurance decision is **REVERSED**. Claimant has sufficiently demonstrated she made an active and earnest search for work for the week ending November 20, 2021. Accordingly, the warning was not appropriate. Claimant was

able to and available for work the ending November 20, 2021, and claimant is therefore eligible for benefits for that week for the reasons stated above.

REMAND:

Claimant testified that she was ill 12/25/2021 - 01/03/2022 and would not have been able to go to work if she had a job. Considering this information, and benefits being granted in 22A-UI-00463-DH-T, the issue of whether claimant is able and available for work for the benefit week ending January 1, 2022, is remanded to the Benefits Bureau of Iowa Workforce Development to consider whether further action is warranted, such as an initial interview and decision on the issue.



Darrin T. Hamilton
Administrative Law Judge

February 22, 2022
Decision Dated and Mailed

dh/scn