

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARA DELARM
Claimant

APPEAL 19A-UI-01038-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/30/18
Claimant: Appellant (2R)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.22(3) – Failure to Make an Active Work Search

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 29, 2019 (reference 03) unemployment insurance decision that found claimant was ineligible for unemployment benefits because she failed to make an active work search for the week-ending January 26, 2019 due to making fewer than two in person job contacts. The claimant was properly notified of the hearing. A telephone hearing was held on February 20, 2019. The claimant, Sara Delarm, participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was the claimant able to work and available for work?
Did the claimant fail to make an active work search?

FINDINGS OF FACT:

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

Claimant filed an initial claim for benefits effective December 30, 2018 due to a permanent separation from employment at Carelinx Inc. Claimant's administrative records establish that she is currently coded in Group Code "2", requiring in person job contacts each week. Group Code "2" no longer exists. For the week-ending January 26, 2019, claimant did make sufficient job contacts and was actively seeking full-time work. The issue of what Group Code is appropriate for claimant to be placed in shall be remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work and did make proper job contacts for the week-ending January 26, 2019.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871—24.2 provides in part:

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:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment, shall file an initial claim for benefits electronically, in person at a local department office, or by other means prescribed by the department and register for work. A claim filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

b. When filing an initial claim for benefits, an individual must provide the following information to the department: (1) The name and complete mailing address of such individual's last employing unit or employer including work history for all employers within the individual's base period. (2) The location of the last job. (3) Last day of work. (4) The reason for separation from work. (5) That such individual is unemployed. (6) That the individual registers for work. (7) The individual's last job occupation. (8) Number, full name, social security number, date of birth, and relationship of any dependents claimed. The identity of an individual identified as a dependent shall be verified by the department before the individual is added to the claim as a dependent. As used in this subparagraph, "dependent" is defined as: spouse, son or daughter of the claimant, or a dependent of either; stepson or stepdaughter; foster child or child for whom claimant is a legal guardian; brother, sister, stepbrother, stepsister; father or mother of claimant or stepfather or stepmother of the claimant; son or daughter of a brother or sister of the claimant (nephew or niece); brother or sister of the father or mother of the claimant (uncle or aunt); son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the claimant; an individual who lived in the claimant's home as a member of the household for the whole year; cousin. A "spouse" is defined as an individual who does not earn more than \$120 in gross wages in one week. The reference week for this monetary determination shall be the gross wages earned by the spouse in the calendar week immediately preceding the effective date of the claim. A "dependent" means an individual who has been claimed for the preceding tax year on the claimant's income tax return. The same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years. An individual cannot claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current claim. (9) The individual's

social security number and alien registration number, if applicable. (10) Such other information as required by the department.

c. All claimants on an initial claim shall state that they are registered for work and shall list their principal occupation. A group code will be assigned to the claimant to control the type of registration that is made. Code assignments will be based on all facts obtained at the time of the claim filing. A group code change can be made at any time during the benefit year if additional information is obtained by the agency.

The group codes are:

(1) Group “3” claimants are workers who are employed on a reduced workweek or temporarily unemployed for a period, verified by the department, of four consecutive weeks or less, due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual’s regular “employer.” This group pertains only to those individuals who worked full-time and will again work full-time if the individuals’ employment, although temporarily suspended, has not been terminated. After a period of temporary unemployment, claimants in this group are reviewed for placement in group “5” or “6.”

(2) Group “4” claimants are those individuals who have left employment in lieu of exercising their right to bump or oust a fellow employee with less seniority or priority from the fellow employee’s job. Group “4” claimants shall have only the search for work provision of Iowa Code section 96.4(3) and the disqualification provision for failure to apply for or to accept suitable work of Iowa Code section 96.5(3) waived. The group “4” code shall not apply to weeks claimed under the extended benefit or federal supplemental compensation programs.

(3) Group “5” claimants are those individuals who are members of unions, trades, or professionals having their own placement facilities. Claimants assigned to this group will be registered for work. A paid-up membership must be maintained. Contact must be made weekly to check for available work. Loss of membership shall result in an assignment to group “6.”

(4) Group “6” claimants are those individuals who do not otherwise meet the qualification group code “3,” “4,” or “5.” This group must complete and document work searches made either in-person, online or by submitting a resumé.

(5) Group “7” claimants are workers who are employed on a reduced workweek with an employer who is under voluntary shared work contract approved by the department. This group pertains only to those individuals who worked full-time and will again work full-time if the individuals’ employment, although temporarily suspended, has not been terminated. Once the contract expires, claimants in this group are reviewed for placement in group “3,” “4,” “5,” or “6.”

(6) Group “8” claimants are workers who are part of a federally declared emergency. Once the emergency period expires, claimants in this group are reviewed for placement in group “3,” “4,” “5,” or “6.”

(emphasis added).

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that claimant was available for work and able to work the benefit week ending January 26, 2019 and that she made appropriate job contacts in order to seek full-time work. Accordingly, the warning was inappropriate.

DECISION:

The January 29, 2019 (reference 03) unemployment insurance decision is reversed. The decision warning the claimant was not appropriate.

REMAND:

The matter of which correct group code claimant shall be placed in is remanded to the Benefits Bureau for an initial investigation and determination.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs