

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**MICHAEL J VARO**  
Claimant

**APPEAL NO. 22A-UI-18216-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 10/02/22  
Claimant: Appellant (1)**

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Iowa Code Section 96.4(3) – Able & Available, Work Search Warning

**STATEMENT OF THE CASE:**

On October 21, 2022, Michael Varo (claimant) filed a timely appeal from the October 18, 2022 (reference 01) decision that reminded the claimant he was required to engage in four reemployment activities, including three job applications, each benefit week and that warned the claimant he could be disqualified for benefits for future weeks in which the claimant did not meet the work search requirement. The reference 01 decision cited the claimant's weekly claim for the week ending October 15, 2022 as the basis for the work search warning decision. After due notice was issued, a hearing was held on November 9, 2022. Claimant participated. Exhibit A, the appeal form, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and the IowaWORKS.gov entries for the week ending October 15, 2022.

**ISSUES:**

Whether the claimant met the work search requirements during the week that ended October 15, 2022.

**FINDINGS OF FACT:**

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

Michael Varo (claimant) established an original claim for benefits that was effective October 2, 2022. Mr. Varo has made weekly claims for each of the five weeks between October 2, 2022 and November 5, 2022. During the week that ended October 15, 2022, the claimant applied for three jobs. During the week that ended October 15, 2022, the claimant corresponded by email with a prospective employer, Quaker Oats/Frito Lay, about scheduling an interview for October 20, 2022. During the week that ended October 15, 2022, the claimant did not engage in any other work search or reemployment activities. When the claimant uploaded work search information to the IowaWORKS.gov website, the claimant mischaracterized his correspondence with Quaker Oats about scheduling an interview as a first interview.

The claimant encountered problems when trying to certify his work search information for the week ending October 15, 2022 via the IowaWORKS.gov website.

On October 16, 2022, when the claimant made his weekly claim via the weekly claim reporting system, he reported zero employer contacts and zero reemployment activities.

On October 21, 2022, the claimant went to the Cedar Rapids IowaWORKS Center and spoke with an IWD representative. Through that contact, the claimant learned that because there was no Social Security number associated with the work search information he uploaded to the IowaWORKS.gov website, the database associated with that website was not being communicated to the weekly claim reporting database. The claimant took steps at that time to address and correct the problem with the IowaWORKS representative. During that contact, the claimant also participated in arrangement to commence working with an IWD Career Planner.

### **REASONING AND CONCLUSIONS OF LAW:**

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(27) provides:

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

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

The work search/reemployment activities requirement is addressed in the 2022 Unemployment Insurance Claimant Handbook, available online at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>:

Continued Eligibility

Work Search Requirements

NOTICE: As of January 9th, 2022, reemployment activities requirements changed from two (2) to four (4). Three (3) of those reemployment activities are required to be job applications. You are required to create an IowaWORKS profile and certify your reemployment activities. You will utilize IowaWORKS to certify your reemployment activities. You are required to certify your reemployment activities prior to filing your weekly claim. Read these [Frequently Asked Questions](#) for more details.

The activities that satisfy the reemployment activities requirement are set forth the 2022 Unemployment Insurance Claimant Handbook, available online at <https://www.iowaworkforcedevelopment.gov/iowa-work-search-requirements-ui-ex>.

Participating in a job interview is on the list of activities that count toward the requirement. Scheduling an interview is not on the list of activities that count toward the requirement.

The claimant did not meet the reemployment activities requirement during the week that ended October 15, 2022. The claimant applied for three jobs, which satisfied the job application component of the reemployment activities requirement. However, the claimant did not apply for a fourth job and did not engage in any other activity that would constitute a fourth reemployment activity. If the claimant had actually participated in an interview during the week that ended October 15, 2022, the interview would have counted as the fourth reemployment activity. However, corresponding the prospective employer about *scheduling* an interview did not count as a fourth reemployment activity. Regardless of the issue with the Social Security number and the two databases not communicating, the claimant did not meet the reemployment activities requirement for the week ending October 15, 2022, which means the work search warning decision was appropriate.

**DECISION:**

The October 18, 2022 (reference 01) decision is AFFIRMED. The claimant did not meet the work search/reemployment activities requirements during the week that ended October 15, 2022. The work search warning decision was appropriately issued. The claimant is required to engage in four reemployment activities, including three job applications, each benefit week and may be disqualified for benefits for future weeks in which the claimant does not meet the work search requirement.

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

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James E. Timberland  
Administrative Law Judge

November 15, 2022  
Decision Dated and Mailed

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**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  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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.