

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

MAGUY ILUNGA
Claimant

APPEAL 24A-UI-05205-SN
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/25/24
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Available for work
Iowa Code § 96.4(7) – Reemployment services
Iowa Admin. Code r. 871-24.6 – Profiling for reemployment services
Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits
Iowa Admin. Code r. 871-24.23 (11) – Failure to Report

STATEMENT OF THE CASE:

The claimant/appellant, Maguy Ilunga, filed an appeal from the February 25, 2024 (reference 05) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits effective May 19, 2024, because the claimant failed to complete Re-employment Services and Eligibility Assessment (“RESEA”) requirements. The parties were properly notified of the hearing. An in-person hearing was held at the Sioux City IowaWORKS at 2508 4th Street in Sioux City, Iowa 51101-2298 on June 21, 2024, at 9:30 a.m.

The claimant participated personally. Iowa Workforce Development (“IWD”) did not participate. IWD’s exhibits were not admitted because they were not sent to the claimant to comply with Iowa Admin. Code r. 871-26.15. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUES:

Is the claimant available for work effective May 19, 2024?
Did the claimant fail to report as directed by a department representative to participate in a reemployment services appointment or offer justifiable cause for their failure to do so?

FINDINGS OF FACT:

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

On February 25, 2024, the claimant filed an original claim for benefits. This was due to a permanent separation in employment. The claimant was mailed a notice to attend the RESEA program. The RESEA program required the claimant to go to additional appointments or her benefits would be denied. These appointments could be attended by phone or in person.

One of those appointments was scheduled for May 8, 2024. Prior to the appointment, the claimant requested that it be rescheduled. The claimant's career planner sent an email to her rescheduling the appointment to occur on May 21, 2024.

On May 15, 2024, the claimant gave birth to her baby by cesarean section. The claimant was discharged a few days later. She felt ill days after the operation. Her physician restricted her from working until June 30, 2024, or six weeks after the surgery.

On May 21, 2024, the claimant forgot about the appointment because she was so caught up in the aftermath of the delivery of her baby.

On May 22, 2024, the claimant replied to the email the career planner had sent her when the appointment was rescheduled. In the email, the claimant explained that she had recently given birth and forgot about the appointment. She then requested that the appointment be rescheduled. The email was blocked. The claimant has called IWD to get the appointment rescheduled.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant did not provide justifiable cause for the failure to report as directed to participate in RESEA appointment. Benefits are denied effective May 19, 2024.

Each week a claimant files a claim for benefits she must be able to and available for work. Iowa Code § 96.4(3). To maintain continued eligibility, a claimant shall report as directed by an authorized representative. 871 IAC 24.2(1)e. A claimant who fails to report as directed by notice mailed to the claimant is deemed unavailable for work. Iowa Admin. Code r. 24.23(11).

If the department identifies a claimant who is likely to exhaust benefits, in order to be eligible for weekly benefits a claimant must report as directed to participate in reemployment services. Iowa Code § 96.4(7). Unemployment insurance rules require a claimant to 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. Iowa Admin. Code r. 871-24.6(6). 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. *Id.*

Justifiable cause for failure to participate includes 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. *Id.* The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause. *Id.* Failure to report for the appointment, failure to contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause for missing the appointment, or failure to have justifiable cause for failing to report for the appointment means the claimant has failed to meet the availability requirements of the law. *Id.*

Iowa Admin. Code r. 871-24.23(35) provides:

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

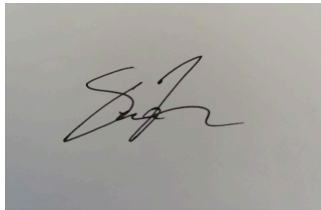
(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

The claimant attended the orientation session, but she agreed as part of the program that she would complete all sessions of the program, or her benefits could be disrupted. The claimant also initially let IWD know of a conflict regarding May 8, 2024. The claimant did not reschedule the appointment scheduled for May 21, 2024, prior to it occurring. As a result, the claimant's benefits are denied effective May 19, 2024, and continuing until she completes the remaining requirements, subject to the availability restriction outlined in the following paragraph.

The administrative law judge is not without empathy to the understandable distractions that come with the momentous birth of her baby. It is notable that the claimant was fully discharged from the hospital well before the appointment on May 21, 2024. Even if these circumstances constituted justifiable cause under the law, that only counts if IWD is notified ahead of the appointment and the claimant did not attempt to reschedule the appointment until the following day, May 22, 2024. Furthermore, the claimant will not be released from her physician until June 30, 2024, which means she is not available to work until that date per Iowa Admin. Code r. 871-24.23(35).

DECISION:

The February 25, 2024 (reference 05) unemployment insurance decision is AFFIRMED. The claimant has not provided justifiable cause for having failed to report for a reemployment services appointment. Benefits are denied effective May 19, 2024, and continuing until the claimant reports for the reemployment services appointment, subject to the restrictions she has regarding her availability for work until June 30, 2024.



Sean M. Nelson
Administrative Law Judge II

June 24, 2024
Decision Dated and Mailed

smn/scn

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
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 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