

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number: 13IWDUI027**

**OC: 10/14/12**

**Claimant: Appellant (6)**

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>TH</sup> Floor Lucas Building, Des Moines, Iowa 50319.**

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.

**MARIA E. CHAVARRIA**  
**311 S 3<sup>RD</sup> ST**  
**MARSHALLTOWN, IA 50158-2720**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT**  
**REEMP. SERVICES COORDINATOR**  
**430 EAST GRAND AVE.**  
**DES MOINES, IA 50309**  
**SANDY KROUGH**

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.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

JONI BENSON, IWD

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(Administrative Law Judge)

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March 11, 2013

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(Decision Dated & Mailed)

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### STATEMENT OF THE CASE

Maria E. Chavarria filed an appeal from a decision issued by Iowa Workforce Development (IWD) dated December 14, 2012, reference 03. In this decision, the Department determined that Ms. Chavarria was ineligible to receive unemployment insurance benefits effective December 9, 2012 because she failed to participate in reemployment services as requested.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on or about January 16, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on January 24, 2013. On March 8, 2013, a telephone appeal hearing was held before Administrative Law Judge Carol J. Greta. Reemployment services coordinator, Sandy Krough, represented IWD and presented testimony. The Appellant did not appear by telephone at the date and time scheduled for hearing and the hearing was held in her absence. The Appellant had earlier indicated that she needed a Spanish language translator. Patricia Vargas Ver Ploeg, a Spanish language translator from the Iowa International Center, was present.

## **ISSUE**

Whether the Department correctly determined that the Appellant did not establish justifiable cause for failing to participate in a Re-employment Orientation and Assessment.

## **FINDINGS OF FACT**

Maria E. Chavarria filed a claim for unemployment insurance benefits with an effective date of October 14, 2012. By letter dated November 13, 2012, IWD sent Ms. Chavarria notice that she was required to attend a Re-employment Orientation and Assessment class on December 11, 2012. Ms. Chavarria did not attend that class. As translated by Ms. Ver Ploeg, Ms. Chavarria wrote in her notice of appeal that she had a job interview on the day of the class, and that she tried to contact IWD but could not leave a message. The notice of appeal was received by IWD on January 8, 2013.

On December 14, 2012, IWD issued a decision disqualifying Ms. Chavarria from receiving unemployment insurance benefits effective December 9, 2012 and continuing until she participates in the orientation and assessment class. Ms. Krough testified that Ms. Chavarria did attend the class on January 8, 2013, and her benefits were re-started as of that week.

Ms. Krough points out that the decision of December 14 informed Ms. Chavarria that any appeal had to be postmarked or received by IWD on December 24, 2012. Ms. Krough questions the timeliness of the appeal.

## **REASONING AND CONCLUSIONS OF LAW**

EUC is a federally funded program that provides benefits to individuals who have exhausted regular state benefits; it is administered by the Iowa Workforce Development (Department). To remain eligible for benefits, a recipient must participate in reemployment services, including an eligibility assessment, unless the recipient establishes justifiable cause for failure to participate or has previously completed such training. The administrative rules for IWD provide a ten day period in which persons may appeal to commence a contested case. 871—Iowa Administrative Code 26.4(2).

The evidence present in the record shows that Ms. Chavarria's appeal was untimely. It must be dismissed.

## **DECISION**

The appeal filed herein is untimely and is hereby DISMISSED.