

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

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**SARA ROBERTS**  
**372 ST. OLAF STREET NW**  
**CEDAR RAPIDS, IA 52404**

**IOWA WORKFORCE DEVELOPMENT**  
**REEMP. SERVICES COORDINATOR &**  
**SHANLYN SEIVERT and CAROL**  
**DUGGAN**

JOE WALSH, IWD

**Appeal Number: 13IWDUI033**  
**OC: 10/21/12**  
**Claimant: Appellant (3)**

**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.

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.

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.

Jean M. Davis

(Administrative Law Judge)

March 13, 2013

(Decision Dated & Mailed)

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**STATEMENT OF THE CASE**

Sara Roberts filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 3, 2013, reference 03. In this decision, the Department determined that Ms. Roberts was ineligible to receive unemployment insurance benefits effective December 30, 2012 because she failed to participate in a reemployment services and eligibility assessment on January 2, 2013.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on January 14, 2013 to schedule a contested case hearing. The hearing was scheduled for March 5, 2013 and a notice of hearing was mailed to all parties at the addresses of record.

The Appellant appeared for the hearing and was self-represented. The Appellant

testified and also presented testimony from her mother, Tammy Roberts. Iowa Workforce Development appeared for the hearing by Carol Duggan. Ms. Duggan also testified in this case. The administrative file included a copy of the notice of adverse action and a copy of the Appellant's notice of appeal.

### **FINDINGS OF FACT**

The Appellant was determined eligible to receive unemployment compensation benefits with an original claim date of October 21, 2012. After she was awarded benefits, Iowa Workforce Development sent the Appellant a notice setting an appointment for eligibility review on November 26, 2012. (Testimony of Ms. Duggan). The Appellant could not attend that meeting and the meeting was continued a rescheduled.

A notice rescheduling the eligibility meeting was rescheduled for January 2, 2013 and a notice was mailed to the Appellant. (Testimony of Ms. Duggan). However, the Appellant did not receive the notice scheduling the meeting until after the meeting time. (Testimony of Appellant and Notice of Appeal). The Appellant testified that she did not receive the notice for the meeting until after the scheduled time. The Appellant's testimony was corroborated by her mother, with whom the Appellant lives. The Appellant's mother testified that they do not receive mail at their address until late in the day and that she was present with the Appellant when the notice was received. (Testimony of Mrs. Roberts). The Appellant's mother looked at the notice and also noted that the time for the meeting had already past.

Iowa Workforce Development sent the Appellant a notice dated January 3, 2013 stating that she was not eligible to receive benefits because she missed the meeting on January 2, 2013. The Appellant filed a timely appeal from that decision. The Appellant's failure to attend the assessment eligibility meeting is understandable in this case. Based upon the Appellant should not be penalized or disqualified for her failure to attend the assessment as she did not receive written notice of the meeting before the time of the meeting.

### **CONCLUSIONS OF LAW**

Iowa Workforce Development and the Iowa Department of Economic Development provide a program that offers reemployment services to individuals receiving unemployment insurance benefits. The services offered include aptitude assessments, employment counseling, job searching assistance, and resume preparation, among other things. Once the Department selects an individual for reemployment services, that individual must participate in those services unless he or she establishes justifiable cause for failure to participate or has previously completed such training.

Justifiable cause is "an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant." Failure to participate without justifiable cause disqualifies an individual from receiving benefits until he or she participates in the

reemployment services.<sup>1</sup>

The evidence in the administrative file establishes that the Appellant had justifiable cause not to participate in reemployment services assessment on January 2, 2013. The Appellant received the notice setting the appointment but the notice was not delivered to her until after the meeting time. The Appellant could not attend the meeting as scheduled because she did not received timely notice.

The Appellant had adequate justification for the failure to participate in reemployment services. The Department's decision, therefore, must be reversed.

### **DECISION**

Iowa Workforce Development's decision dated January 3, 2013, reference code 03, is REVERSED. The Department shall take prompt steps to issue benefits for any subsequent weeks for which the Appellant was otherwise provided eligible. The Department shall take any further action necessary to implement this decision.

jmd

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<sup>1</sup> 871 IAC 24.6.