

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JERI FOREMAN
115 4TH STREET
HAMPTON, IA 50441

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
RONEE SLAGLE & LARRY FABER

Joni Benson, IWD
Jodi Douglas, IWD
Nicholas Olivencia, IWD
Emily Chafa, UI Appeals Manager

Appeal Number: 16IWDUI135
OC: 2/28/16
Claimant: Appellant (1)

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, 4TH 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.

(Administrative Law Judge)

May 27, 2016

(Decision Dated & Mailed)

STATEMENT OF THE CASE

The Appellant, Jeri Foreman, filed an appeal from a decision issued by Iowa Workforce Development (Department) dated March 28, 2016 (reference 03). In this decision, the Department determined that the Appellant was ineligible to receive unemployment insurance benefits effective March 20, 2016, because she failed to participate in a reemployment and eligibility assessment.

The case was transmitted from Iowa Workforce Development to the Department of Inspections and Appeals on April 18, 2016, to schedule a contested case hearing. A copy of the administrative file was also sent to the Appellant. Notice of Telephone Hearing was mailed to all parties on April 20, 2016. On May 17, 2016, a telephone appeal hearing was held before Administrative Law Judge Kathleen M. O'Neill. Mila Bair appeared and testified on behalf of Department. Exhibits were submitted by the Department and admitted into

the record as evidence: (A) notice of hearing; (B) transmittal slip; (C) appeal letter; (D) notice of decision, (E) notice to report, (F) statement of fact, (H) rescheduled initial notice. The Appellant was present and provided testimony.

ISSUE

Whether the Department correctly determined that the Appellant did not establish justifiable cause for failing to participate in reemployment services.

FINDINGS OF FACT

The Appellant filed a claim for unemployment insurance benefits. The Department mailed the Appellant a notice requiring her to attend a reemployment and eligibility assessment (REA) on March 25, 2016. The notice informed her that failure to appear at the reemployment assessment would result in the denial of unemployment insurance benefits. On March 28, 2016, the Department issued a decision disqualifying the Appellant from receiving unemployment insurance benefits because of her failure to report for the reemployment assessment. The Appellant appealed the decision. (Bair testimony, Ex. E, D)

The Appellant testified that she made an honest mistake and forgot the REA. As soon as she received the Department decision, she called and rescheduled the assessment. She lost her job because her pancreas was failing and she had many doctors' appointments. She transposed a doctor appointment with the unemployment appointment. She was a professional person and never missed appointments. She owned up to her mistakes and errors. The Appellant noted that unemployment was supposed to help her secure new employment, but she made one mistake and was being punished. If she lost unemployment for two weeks, then she would not be able to pay for her vehicle insurance, in order to look for new employment. She was willing to do anything to prevent this lapse in payment. (Foreman testimony)

Department worker, Mila Bair, stated that she had no discretion. Because the Appellant's appointment was on March 25, 2016, and she did not call until her benefits were interrupted, there was nothing Ms. Bair could do. The Appellant was rescheduled for REA on April 7, 2016, and after she attended, her claim was unlocked. (Bair testimony)

REASONING AND 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.¹

The Appellant did not attend the reemployment and eligibility assessment on March 25, 2016. There is no dispute that the Department sent, and the Appellant received, a copy of the assessment notice, which marked the date of appointment and result for failure to attend. The Appellant asserted at hearing that she transposed a doctor appointment with the unemployment appointment and simply made a mistake. She explained that she was a professional person and never missed appointments. She understood that she missed this appointment, but owned up to her mistakes and errors. She subsequently completed the REA.

The undersigned finds that the Appellant provided credible testimony and does not question her sincerity or need for benefits. It is clear she was proactive in calling the Department to reschedule the class. However, she was required to notify the Department of her reason for missing the meeting prior to the date of the appointment. The re-employment services program letter specifically informed her of this requirement and provided the number for doing so. It is understandable that situations arise that cause a person to miss the scheduled REA; however, that person must then show that the reason meets the standard of justifiable cause. The undersigned recognizes that the Appellant made a mistake; unfortunately, forgetting a class does not meet the standard to establish justifiable cause for failing to participate in reemployment services. The Department's decision is affirmed.

DECISION

Iowa Workforce Development's decision dated March 28, 2016 (reference 03) is **AFFIRMED**. The Department shall take any action necessary to implement this decision.

¹ 871 Iowa Administrative Code (IAC) 24.6.