

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ZEYAD A HAMMADI
Claimant

APPEAL NO. 21A-UI-12057-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/07/21
Claimant: Appellant (1)**

Iowa Code Section 96.4(6) – Department Approved Training

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 4, 2021, reference 02, decision that denied department approved training effective August 22, 2021. After due notice was issued, a hearing was held on July 20, 2021. Claimant participated. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-14251-JTT. Exhibits A through G were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, NMRO, the application for department approved training dated April 3, 2020, the application for department approved training dated April 25, 2021, and the administrative law judge decision in Appeal Number 20A-UI-02967-DG-T, the May 4, 2021 (reference 02) decision, and the June 4, 2021 (reference 03) decision.

ISSUES:

Whether the claimant is eligible for department approved training effective August 22, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established and original claim for benefits that was effective March 7, 2021. The claimant has made weekly claims that include weekly claims for the period of March 7, 2021 through July 17, 2021. The claimant exhausted regular benefits effective June 26, 2021.

On April 25, 2021, the claimant applied for department approved training for the period August 22, 2021. The claimant had enrolled in classes at Grand View University for the fall semester of 2021, which starts August 23, 2021. The claimant had enrolled for only nine credit hours, which is less than full-time. Full-time enrollment would be for 12 credit hours or more. The claimant plans to continue working on a bachelor's degree that he started in 2016. The claimant's major is biology. The claimant's proposed fall class schedule includes only one in-person class that runs from 1:00 p.m. to 2:20 p.m. on Tuesdays and Thursdays. The remaining two classes are online classes. The claimant asserts, less than confidently, that he will complete his course of study in 2022, but he lacks a plan of study to achieve that outcome. The claimant advises that he hopes to gain employment in a medical laboratory after he earns his degree.

On May 11, 2021, the claimant filed a request to withdraw his appeal in this matter. The claimant wrote that he decided to drop "my class on August 2021. I am no more going to school at this time." The claimant subsequently rescinded his request to withdraw the appeal.

As of June 1, 2021, the claimant was also enrolled for a three-semester hour class at DMACC in Boone for the fall semester of 2021. The class was scheduled for Monday and Wednesdays 9:05 to 10:00 a.m. and Thursday, 9:05 to 11:00 a.m. The claimant subsequently dis-enrolled from the class at DMACC.

The claimant asserts he has part-time on-call employment with Per-Mar Security. The claimant advises he last performed work for Per Mar in January 2021. At the time the claimant submitted his application for department approved training, he indicated his work hours were 10:00 p.m. to 6:00 a.m. and 8:00 p.m. to 3:00 a.m.

The claimant asserts that he also works for Quest Diagnostics, Inc. and that he underwent training at Quest three months ago during morning hours.

Per Mar and Quest reported minimal wages for the claimant in the first quarter of 2021 and no wages for the second quarter of 2021.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(6)a-b provides:

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. (1) An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. section 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. section 2319(I), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

Iowa Admin. Code r. 871-24.39 provides:

Department-approved training. The intent of department-approved training is to allow for claimants to return to the labor market after attending vocational training while being paid unemployment insurance benefits. Vocational training is nonacademic, skill-oriented training that provides the student with job tools and skills that can be used in the workplace. Vocational training includes technical, skill-based, or job readiness training intended for pursuing a career. Upon approval from the department, the claimant shall be exempt from the work search requirement for continued eligibility for benefits. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) The claimant must make application to the department setting out the following:

- a. The educational establishment at which the claimant would receive training.
- b. The estimated time required for such training.
- c. The date the training will be complete or the degree will be obtained
- d. The occupation which the training is allowing the claimant to maintain or pursue.
- e. The training plan, indicating the requirements which must be met in order to complete the certification or degree.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department, under the following conditions:

- a. The educational establishment must be a college, university or technical training institution.
- b. The training must be completed 104 weeks or less from the start date.
- c. The individual must be enrolled and attending the training program in person as a full-time student.

While attending the approved training course, the claimant need not be available for work or actively seeking work, except if the hours of the training are outside the regular hours worked in the base period employment. After completion of department-approved training, the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, be available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course prior to being considered for a subsequent approval and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

The claimant is not eligible for department approved training for the period beginning August 22, 2021. The claimant's proposed coursework at Grandview is not vocational training. Rather it is academic coursework leading to an academic degree. The claimant commenced the particular academic training in 2016. The claimant is still pursuing that same academic training five years later. The training in question cannot be completed within 104 weeks from start to finish. The claimant is not enrolled for full-time, in-person studies. The hours for the in-person training in question falls outside the claimant's hours of work during the base period, which were overnight security office hours.

DECISION:

The May 4, 2021, reference 02, decision is affirmed. The claimant is not eligible for department approved training status effective August 22, 2021. The claimant's request for department approved training status is denied.



James E. Timberland
Administrative Law Judge

July 30, 2021
Decision Dated and Mailed

jet/lj