IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

RHIANNON L CLARK
Claimant

CARE INITIATIVES
Employer

APPEAL NO. 14A-UI-05424-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/23/14
Claimant: Appellant (1)**

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated May 23, 2014, reference 02, that concluded the claimant was overpaid $1,862.00 in benefits. Notice of hearing was mailed to the claimant's last-known addresses of record for a telephone hearing to be held at 11:30 a.m. on June 18, 2014. The claimant did not participate in the hearing.

ISSUE:

Should the appeal be dismissed because the claimant did not participate in the hearing?

FINDINGS OF FACT:

The claimant was properly notified of the scheduled hearing on this appeal. A review of the Appeals Bureau's conference call system shows she failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing. She did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

It should be noted that the overpayment decision duplicates a decision of the administrative law judge in Appeal 14A-UI-04325-MT dated May 9, 2014, which is a final decision.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedures Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

The Agency rules at Iowa Admin. Code r. 871-26.14(7) provide that if the appealing party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rules further state that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Admin. Code r. 871-26.14(7)c.

The claimant has therefore defaulted on her appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in force and effect.

If the claimant disagrees with this decision, a request must be made to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented her from participating in the hearing at its scheduled time.

DECISION:

The unemployment insurance decision dated May 23, 2014, reference 02, is affirmed. The decision that the claimant was overpaid $1,862.00 in benefits remains in effect.

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Steven A. Wise
Administrative Law Judge

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Decision Dated and Mailed

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