# BEFORE THE EMPLOYMENT APPEAL BOARD

Lucas State Office Building, 4<sup>TH</sup> Floor Des Moines, Iowa 50319 eab.iowa.gov

JESTANIE L SIMS :

**HEARING NUMBER:** 22B-UI-23635

Claimant

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EMPLOYMENT APPEAL BOARD DECISION

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**SECTION:** 10A.601 Employment Appeal Board Review

### DECISION

#### FINDINGS OF FACT:

The notice of hearing in this matter was mailed December 13, 2021. The notice set a hearing for December 15, 2021. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because she required emergency surgery that same day. As soon as she was able, she contacted the agency to explain the circumstances.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Here the Claimant did not participate in the hearing because she experienced a medical emergency that required surgery. Although she missed the hearing time, she contacted the agency to explain her circumstances. We find good cause has been established for her nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Claimant may avail herself of her due process right.

We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Claimant could be reached.

# **DECISION:**

The decision of the administrative law judge dated January 19, 2022 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

James M. Strohman	
Ashley R. Koopmans	
Myron R. Linn	

AMG/fnv