

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

Appeal Number: 13IWDUI106
OC: 7/08/12
Claimant: Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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.**

MARY COMRIED
1701 130TH ST UNIT 107
ANAMOSA, IA 52205-7878

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

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & JIM O'HARE

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.

JONI BENSON, IWD

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)

April 26, 2013

(Decision Dated & Mailed)

871 IAC 24.6(6) – Reemployment Services
Iowa Code section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE

Claimant/Appellant Mary Comried appealed a decision issued by Respondent Iowa Workforce Development (“IWD”) on February 14, 2013, reference 01, finding she was not eligible to receive unemployment insurance benefits as of February 10, 2013 because IWD’s records indicated she failed to appear for a reemployment and eligibility assessment on February 12, 2013.

IWD transmitted the case to the Department of Inspections and Appeals on February 28, 2013 to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Comried. A Notice of Telephone Hearing was issued on March 6, 2013, scheduling a contested case hearing for April 24, 2013.

A contested case hearing was held on April 24, 2013. Comried appeared and testified. Jim O'Hare appeared and testified on behalf of IWD. IWD Exhibits 1 through 3 were admitted into the record. Appellant Exhibits A and B were also admitted.

ISSUES

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

Whether IWD correctly determined the claimant is ineligible to receive unemployment insurance benefits.

FINDINGS OF FACT

IWD scheduled Comried to attend reemployment and eligibility assessment on February 12, 2013. Comried received the notice on February 8, 2012 and called IWD the next day to report that she would be out of state looking for work on the 12th and would not be able to attend. She left a message with a person there and did not hear back until she received the decision declaring her ineligible for benefits. Comried has continued her attempts to find work.

O'Hare testified he did not receive any call or messages from Comried regarding her inability to attend the scheduled meeting. He further testified that he receives many calls and the messages are often not delivered. O'Hare testified that he does not doubt that Comried may have called and left a message, he simply did not receive it. O'Hare locked Comried's claim. O'Hare testified that Appellant's Exhibits A and B are the required documentation that would have been submitted at the February 12, 2013 meeting and that Comried did a good job with it.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.¹ Reemployment services may include: (1) an assessment of the claimant's aptitude, work history, and interest; (2) employment counseling; (3) job search and placement assistance; (4) labor market information; (5) job search workshops or job clubs and referrals to employers; (6) resume preparation; and (7) other similar services.²

A claimant is required to participate in reemployment services when referred by IWD, unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed the training or services.³ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

claimant participates in reemployment services.⁴ “Justifiable cause for failure to participate 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.”⁵

Comried missed the appointment because she was out of state looking for work. She called IWD on February 9, 2013 to report that she would be unavailable for the meeting on the 12th. O’Hare has acknowledged that IWD often fails to handle messages correctly and he does not doubt Comried’s testimony that she did indeed call.

I conclude Comried has established justifiable cause for failing to participate in reemployment services, and thus is eligible for benefits. IWD’s decision is reversed.

DECISION

IWD’s decision dated February 14, 2013, reference 01, is REVERSED.

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⁴ *Id.*

⁵ *Id.* 24.6(6)a.