

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

Appeal Number: 10-IWDUI-305
OC: 08/01/2010
Claimant: Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

PATRICIA A. BARTIE
530 COLUMBIA AVENUE
SUMNER, IA 50674-1640

LINDSAY ANDERSON
TRA/TAA PROGRAM
150 DES MOINES STREET
DES MOINES IA 50309

DAN ANDERSON, IWD

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 written 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)

August 31, 2009

(Dated and Mailed)

20 C.F.R. Part 617 – Trade Adjustment Assistance for Workers

STATEMENT OF THE CASE

Patricia A. Bartie appealed a decision issued by Iowa Workforce Development (IWD) dated September 14, 2010. That decision denied Ms. Bartie's request for classroom training pursuant to Trade Adjustment Assistance (TAA), due to failure to meet eligibility criteria.

IWD transmitted the case to the Department of Inspections and Appeals on November 4, 2010 for scheduling of a contested case hearing. A Notice of Telephone Hearing

was issued on November 10, 2010.

On December 6, 2010, the matter proceeded to a hearing by telephone before Administrative Law Judge Robert H. Wheeler. Appellant Patricia A. Bartie appeared pro se and testified. IWD did not appear, but submitted documents in the administrative file that entered the record without objection as Exhibits 1 – 7.

ISSUES

Whether the Department correctly denied the appellant's TAA benefits.

FINDINGS OF FACT

On August 30, 2010, Ms. Bartie submitted an Application For Approved Training. Her application stated that she was attending training at the International Academy of Design and Technology (IADT) via online classes, which would result in an Associate of Science degree in Graphic Design. The application further stated that the program would run from August 30, 2010, until completion on April 21, 2010. The application included a class schedule. (Exhibits 6, 7; Bartie testimony).

By a written decision dated September 14, 2010, IWD denied the appellant's application. The decision correctly stated that the United States Department of Labor established six criteria for training plan approval. The denial in this case was based on number six, found at 20 CFR 617.22(a)(6). That section requires that training be suitable for the applicant and available at reasonable cost. (Exhibit 3).

In reaching the denial decision, Lindsay Anderson of IWD found that the total cost of the requested program was \$36,087. Ms. Anderson also found that Hawkeye Community College in Waterloo, Iowa, offered a similar program for a cost of \$15,251 plus transportation. Hawkeye Community College would involve a 76 mile roundtrip for the appellant. Ms. Anderson found the transportation cost to be \$13,680, for a total cost of \$28,931. The decision stated,

“Since training that is substantially similar in quality, contents and results is available for significantly less cost at Hawkeye Community College, your Request for Classroom Training at International Academy of Design and Technology must be denied.”
(Exhibit 3).

Ms. Bartie testified that the similar program at Hawkeye would actually cost her more than the IADT program. Ms. Bartie received a Pell grant for the IADT program in the amount of \$4,800. She also received a presidential scholarship for an additional \$1,000. These financial aid amounts reduced the IADT cost to \$30,287. Ms. Bartie also testified that the program at Hawkeye would require two years to achieve the degree, which would require two payments of \$15,500, or a total of \$31,000. The total cost of the Hawkeye program including transportation would be \$44,680. Ms. Bartie also stated that she initially gave IWD the wrong placement rate for IADT. She told

IWD that that placement rate was 22%. Subsequently Ms. Bartie discovered that the actual rate is 88.9%. Ms. Bartie also stated that the program at Hawkeye Community College had already begun when she applied for benefits. Enrollment would have had to wait a full year, until Fall of 2011, whereas enrollment and classes at IADT can begin at any time. (Exhibits 1, 4, 5; Bartie testimony).

CONCLUSIONS OF LAW

Trade adjustment assistance (TAA) benefits are available under the Trade Act of 1974 to certain workers who become unemployed as a result of increased imports. 20 C.F.R. 617.2.

An individual seeking TAA benefits for classroom training must meet the six criteria established by 20 CFR 617.22(a)(1) through (6).

IWD reached its denial decision citing only one of these criteria, reasonable cost. The rule provides that reasonable cost includes comparison of the availability of similar training from another provider at a lower total cost within a similar time frame. 20 CFR 617.22(a)(6)(ii). However, the testimony of the appellant is uncontradicted. IADT would cost her less than the Hawkeye Community College alternative proposed by IWD, and IADT would involve completion and job readiness in a substantially shorter time frame. Therefore, the denial must be reversed.

DECISION

Iowa Workforce Development's decision dated September 14, 2010 is REVERSED. The Department shall take any additional steps necessary to implement this decision.

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