

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**KYLA MCKENZIE**  
**2160 GRAND AVE. APT. 20**  
**WEST DES MOINES, IA 50265-4257**

**IOWA WORKFORCE DEVELOPMENT**  
**REEMP. SERVICES COORDINATOR &**  
**KIMBERLY WILHELM**

JOE WALSH, IWD

**Appeal Number: 12IWDUI148**  
**OC: 10/2/11**  
**Claimant: Appellant (2)**

**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, 4<sup>TH</sup> 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.

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(Administrative Law Judge)

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April 30, 2012

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(Decision Dated & Mailed)

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**STATEMENT OF THE CASE**

Kyla McKenzie filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 9, 2012, reference 01. In this decision, the Department determined that McKenzie was ineligible to receive unemployment insurance benefits effective November 13, 2011 because she failed to report for a reemployment and eligibility assessment on November 17, 2011.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on March 27, 2012 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on March 30, 2012. On April 27, 2012, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Appellant Kyla McKenzie appeared and presented testimony. Exhibits A through E were submitted by the Department and admitted into the record as evidence.

The Appellant submitted Exhibit 1, which was admitted as evidence. No representative from the Department appeared to participate in the hearing.

### **ISSUE**

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

### **FINDINGS OF FACT**

Kyla McKenzie filed a claim for unemployment insurance benefits with an effective date of October 2, 2011. On January 9, 2012, the Department issued a decision disqualifying McKenzie from receiving unemployment insurance benefits effective November 13, 2011 because of an alleged failure to report for a reemployment and eligibility assessment on November 17, 2011. (Exh. C).

McKenzie never received any notice from the Department scheduling her to attend a reemployment and eligibility assessment on November 17, 2011. McKenzie checks her mail regularly. She lives in an apartment with a roommate who also occasionally checks the mail. If McKenzie's roommate picks up mail from the apartment's mailbox that is addressed to McKenzie, she makes McKenzie aware of the mail. Neither McKenzie nor her roommate received any notice from the Department requiring McKenzie to attend a reemployment and eligibility assessment on November 17, 2011. (McKenzie testimony). There is no notice in evidence in this appeal. McKenzie appealed the Department's decision disqualifying her from receiving benefits. (Exh. A).

### **REASONING AND CONCLUSIONS OF LAW**

Iowa Workforce Development and the Iowa Department of Economic Development provide a program that offers reemployment services to individuals receiving unemployment insurance benefits. The services offered include aptitude assessments, employment counseling, job searching assistance, and resume preparation, among other things. Once the Department selects an individual for reemployment services, that individual must participate in those services unless he or she establishes justifiable cause for failure to participate or has previously completed such training. Justifiable cause 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." Failure to participate without justifiable cause disqualifies an individual from receiving benefits until he or she participates in the reemployment services.<sup>1</sup>

The evidence in this case demonstrates that McKenzie did not receive notice of the November 17, 2011 reemployment and eligibility assessment. Her failure to attend was a direct result of her failure to receive notice. Failure to receive notice of the reemployment services orientation certainly constitutes justifiable cause for failing to attend. Under these circumstances, the Department's decision to disqualify McKenzie for unemployment insurance benefits effective November 13, 2011 was incorrect.

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<sup>1</sup> 871 Iowa Administrative Code (IAC) 24.6.

**DECISION**

Iowa Workforce Development's decision dated January 9, 2012, reference 01, is REVERSED. The Department shall take prompt steps to issue benefits to Kyla McKenzie retroactive to the date of disqualification, provided she was otherwise eligible. The Department shall take any additional action necessary to implement this decision.

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