

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

KATHLEEN W BENDER

Claimant

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HEARING NUMBER: 22B-UI-12045

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

The notice of hearing in this matter was mailed initially mailed on June 17th for a July 20, 2021 hearing in which the Claimant provided her contact information. The matter was rescheduled for October 13, 2021. On the day of the hearing, however, the Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant was obtaining medical attention for a medical issue at the time of the hearing.

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 was experiencing a medical problem that required attention at the time of the hearing for which she provided corroborative medical documentation. The Claimant has provided good cause 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 October 15, 2021 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

DISSENTING OPINION OF MYRON R. LINN:

I respectfully dissent from the decision of the Employment Appeal Board; I would affirm the decision of the administrative law judge in its entirety.

Myron R. Linn

AMG/fnv