

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

Appeal Number: 15IWDUI181
OC: 3/29/15
Claimant: Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

CALLY L. MCCLINTON
700 NW 11TH STREET
GRIMES, IA 50111

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
LORI ADAMS & MARCIA FINK

JONI BENSON, 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 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)

June 30, 2015

(Decision Dated & Mailed)

STATEMENT OF THE CASE

The Appellant, Cally McClinton, filed an appeal from a decision issued by Iowa Workforce Development (Department) dated May 18, 2015 (reference 04). In this decision, the Department determined that the Appellant was ineligible to receive unemployment insurance benefits effective May 10, 2015, because she failed to participate in a reemployment and eligibility assessment.

The case was transmitted from Iowa Workforce Development to the Department of Inspections and Appeals on May 29, 2015, to schedule a contested case hearing. A copy of the administrative file was also sent to the Appellant. Notice of Telephone Hearing was mailed to all parties on June 3, 2015. On June 26, 2015, a telephone appeal hearing was held before Administrative Law Judge Kathleen M. O'Neill. Marcia Fink appeared and testified on behalf of Department. Exhibits were submitted by the Department and

admitted into the record as evidence: (A) notice of hearing; (B) transmittal slip; (C) appeal letter; (D) notice of decision, (E) notice to report, (F) Departmental email, (G) selected notes, (H) statement of fact, (I) rescheduled initial notice. The Appellant was present and provided testimony.

ISSUE

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

FINDINGS OF FACT

The Appellant filed a claim for unemployment insurance benefits. The Department mailed the Appellant a notice requiring her to attend a reemployment and eligibility assessment on May 14, 2015. The notice informed her that failure to appear at the reemployment assessment would result in the denial of unemployment insurance benefits. On May 18, 2015, the Department issued a decision disqualifying the Appellant from receiving unemployment insurance benefits because of her failure to report for the reemployment assessment. The Appellant appealed the decision. (Fink testimony, Ex. E, D)

The Appellant did not appear for the May 14, 2015 assessment. She testified that she believed the appointment was May 24, 2015, and was not sure how she confused the dates. When she gathered her paperwork for the meeting, she realized that she had missed the meeting and immediately called the Department. She had no intention of missing the meeting and took care of her requirements right away. The Appellant explained that she depended on these benefits while she searched for full time employment. She recently got a part time job, but it was not enough to support her family. She was working hard, and this one week without benefits put her behind on her bills. She understood the law, but stated that this was an honest mistake. (McClinton testimony)

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.¹

The Appellant did not attend the reemployment and eligibility assessment on May 14,

¹ 871 Iowa Administrative Code (IAC) 24.6.

2015. There is no dispute that the Department sent, and the Appellant received, a copy of the assessment notice, which marked the date of appointment and result for failure to attend. The Appellant asserted at hearing that she believed the appointment was May 24, 2015, and was not sure how she confused the dates. When she realized that she had missed the meeting, she immediately called the Department and took care of her requirements.

The undersigned finds that the Appellant provided credible testimony. The undersigned does not question her sincerity or need for benefits and it is clear she was proactive in calling the Department after she missed the appointment. However, she was required to notify the Department of her reason for missing the meeting prior to the date of the appointment. The re-employment services program letter specifically informed her of this requirement and provided the number for doing so. The Appellant has not established justifiable cause for failing to participate in reemployment services. The Department's decision is affirmed.

DECISION

Iowa Workforce Development's decision dated May 18, 2015 (reference 04) is **AFFIRMED**. The Department shall take any action necessary to implement this decision.