

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 04A-UI-06535-ET  
OC: 06-01-03 R: 04  
Claimant: Respondent (1)

**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, 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 Workforce Development. 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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(Decision Dated & Mailed)

871 IAC 24.52(7) – Head Start/Community Action Programs

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 7, 2004, reference 02, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 19, 2004. The claimant participated in the hearing. Pam Damhorst, Benefits and Human Resources Administrator, participated in the hearing on behalf of the employer.

#### FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired in September 1999 as a teaching assistant in a head start program for Iowa East Central T.R.A.I.N. The claimant works during a traditional school year, starting in August and ending in May. She is currently laid off because the head start program is discontinued during the summer. Both the employer and the claimant anticipate the claimant will return to work in August 2004. The employer is a community action agency and although 70 percent of its revenue is directed toward the head start program it does run several other programs for the community.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer is an educational institution. For the following reasons the administrative law judge concludes it is not.

871 IAC 24.52(7) provides:

(7) Head start programs are considered educational in nature; however, the employing unit as a whole must have as its primary function the education of students. When the employing unit is operated primarily for educational purposes then the between terms denial established by Iowa Code section 96.4(5) will apply between two successive academic years or terms and will apply for holiday and vacation periods to deny benefits to school personnel.

a. A nonprofit organization which has as its primary function civic, philanthropic or public assistance purposes does not meet the definition of an educational institution. Community action programs which have a head start school as one component are not an educational institution employer and the between terms denial does not apply.

b. A head start program which is an integral part of a public school system conducted by a board of education establishes an employing unit whose primary function is educational; therefore, the between terms denial would apply.

The pertinent part of the Iowa Administrative Code Section set out above states, "Community action programs that have a head start school as one component are not an educational institution employer and the between terms denial does not apply." The determining factor is solely whether Iowa East Central T.R.A.I.N. is a community action program with head start as one component, regardless of what percentage of revenue, employees and programs the employer dedicates to the head start program. Because the employer is clearly a community action agency, the claimant is not considered an educational institution employee and the between terms denial does not apply. Consequently, the administrative law judge concludes the claimant is eligible for unemployment insurance benefits.

#### DECISION:

The June 7, 2004, reference 02, decision is affirmed. The between terms denial does not apply and benefits are allowed, provided the claimant is otherwise eligible.

je/kjf