

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

Appeal Number: 13IWDUI453
OC: 02/24/13
Claimant: Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

MICHAEL A. CURTIS
PO BOX 1312
ANKENY, IA 50021

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR
SHANLYN SEIVERT & LILLIE SIMPSON

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)

October 21, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

The Appellant, Michael Curtis filed an appeal from a decision issued by Iowa Workforce Development (IWD or Department) dated September 6, 2013 (reference 02). In this decision, the Department determined that the Appellant was ineligible to receive unemployment insurance benefits effective September 1, 2013, 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 September 24, 2013 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 October 2, 2013. On October 18, 2013, a telephone appeal hearing was held before Administrative Law Judge Kathleen M. O'Neill. The Appellant, Michael Curtis appeared and presented testimony. Exhibits were submitted by IWD and

admitted into the record as evidence: (A) notice of hearing; (B) transmittal slip; (C) appeal letter; (D) notice of decision; and (E) decision worksheet. Department representatives Shanlyn Seivert and Lillie Simpson were provided instructions to participate in the hearing, but did not call in to do so. The hearing was held in their absence.

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 September 6, 2013 notice of decision states that the Department mailed the Appellant a notice requiring her to attend a reemployment and eligibility assessment on September 3, 2013. (Exh. D).

In this case, IWD asserts that a letter was mailed to the Appellant scheduling her for a reemployment and eligibility assessment. However, IWD did not submit the letter as evidence in the case and did not provide information regarding when the letter would have been mailed.

The Appellant did not appear for the September 3, 2013 assessment. However, she contacted the Department on September 13, 2013 to indicate that she had only recently received her notice and wanted to reschedule the assessment. (Curtis testimony)

On September 6, 2013, the Department issued a decision disqualifying the Appellant from receiving unemployment insurance benefits because of her failure to report for the September 3, 2013 reemployment assessment. The Appellant appealed the decision. (Ex. D, Curtis 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

¹871 Iowa Administrative Code (IAC) 24.6.

The Appellant did not attend the reemployment and eligibility assessment on September 3, 2013; however, she stated that she called Inger Hall on September 13, 2013 at 12:25 PM, and left a voice message with two numbers in which she could be reached. The Appellant stated that Ms. Hall's voice mail indicated to leave a message, but not to keep calling back or leave multiple messages. The Appellant subsequently waited to call again until September 16, 2013, but the voice mailbox was full at this point. The Appellant admitted that the reason she missed the assessment was because she had not checked her post office box in time to be at the assessment. However, she attempted to remedy this situation multiple times, but could not get someone from the Department to return her call.

Because the Appellant has taken proactive measures toward re-employment and has no record of failing to complete other IWD documentation, the undersigned finds that the Department's decision is reversed. The Appellant's credible testimony shows that she made timely arrangements to reschedule the assessment, but did not receive an adequate response from the Department. No one appeared on behalf of the Department to rebut the Appellant's testimony. A reasonable person would consider the Appellant's commitment adequate justification for failing to attend a reemployment and eligibility assessment.

DECISION

Iowa Workforce Development's decision dated September 6, 2013 (reference 02) is REVERSED. The Department shall take any action necessary to implement this decision.