

IOWA DEPARTMENT OF INSPECTIONS & APPEALS
Division of Administrative Hearings
Wallace State Office Building – Third Floor
502 East Ninth Street
Des Moines, Iowa 50319-8082

Appeal Number: 17IWDUI062
OC: 11/15/15
Claimant: Appellant (00)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

HEATH CHRISTENSEN
814 BOURLAND AVENUE
WATERLOO, IA 50702

MATT GIFFORD, TAA/TRA PROGRAM
COORDINATOR
JONI BENSON, IWD
NICHOLAS OLIVENCIA, IWD
EMILY CHAFA, UI APPEALS MANAGER

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, 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 27, 2016
(Dated and Mailed)

20 Code of Federal Regulations (CFR) section 617.22(f)(2), as amended – Trade Adjustment Assistance (TAA)/Trade Readjustment Allowances (TRA) – one training program.

STATEMENT OF THE CASE

On August 9, 2016, Heath Christensen, claimant/appellant, filed an appeal from a decision issued by Iowa Workforce Development (IWD) dated August 2, 2016, reference 00, denying Christensen's request to amend his classroom training because Christensen failed timely to make the request.

On August 10, 2016, IWD mailed a copy of its administrative file to Christensen. On August 16, 2016, the Iowa Department of Inspections and Appeals (DIA), Division of

Administrative Hearings (administrative hearings) received IWD's request to schedule a contested case hearing.

On June 9, 2016, DIA administrative hearings issued a *Reissued Notice of Telephone Hearing* to the parties scheduling the appeal hearing on September 28, 2016. On September 28, 2016, Charles B. Tarvin, administrative law judge, conducted the hearing. Christensen participated in the hearing. Matt Gifford, workplace program coordinator – Trade Act, represented IWD. The judge admitted the IWD decision letter, appeal letter, amended training request, 20 Code of Federal Regulations (CFR) Part 617, eligibility packet, IWD decision letter, TAA Guidance Letter No. 1-15, Operating Instructions for Implementing TAARA 2015, IWD case notes, original training request, *What Happens Next? And Student Requirements*, welding certificate, Agreement Between State of Iowa and the U.S. Secretary of Labor, and digital recording into the record.

ISSUE

Whether IWD correctly denied the claimant's request to amend the claimant's classroom training program under the Trade Act.

FINDINGS OF FACT

On October 20, 2014, Christensen reportedly separated from employment with employer JD because of lack of work.

During the period at issue, Christensen's five-member family included three children.

On or about November 11, 2015, Christensen filed an initial eligibility application for Trade Adjustment Assistance (TAA) and Trade Readjustment Allowances.

Christensen potentially was entitled to TAA-approved classroom training as a result of Trade Act petition number 85873-1. (eligibility packet)

In November 2015, Christensen met with Robbie Hadaway, a case manager, in order to apply for TAA-approved classroom training. (IWD case notes, testimony of Christensen)

On or about November 11, 2015, Christensen filed a request by worker for training approval and allowances while in training. From January 11, 2016 to May 11, 2016, Christensen would participate in a welding program at a community college. Upon signing the request, Christensen certified to the following:

I further understand that, if this training request is approved by the State Trade Office, any subsequent amendments to this training plan must be requested by me and approved by the State Trade Office **before** the change occurs and before the conclusion of my initially approved training plan.

Christensen also submitted a school facts sheet on which he stated that he would receive a welding certificate upon completion with the Trade Act program.

On December 11, 2015, IWD approved Christensen's request for TAA-approved classroom training from January 11, 2016 to May 11, 2016. (original training request)

IWD provided Christensen a copy of *What Happens Next? And Student Requirements*. Under Student Requirements, it was stated:

O Any changes requiring an amendment to an existing TAA-approved classroom training plan must be requested by you and approved by the State Trade Office **before** the change occurs and **before** the conclusion of your initially approved training plan . . .

On May 11, 2016, Christensen completed his training at the community college for a welding certificate and received a welding certificate. (welding certificate)

On or about July 29, 2016, Christensen filed a request by worker for training approval and allowances while in training. From August 22, 2016 to May 10, 2017, Christensen would participate in a training program at the community college.

Christensen, in support of his request to "amend" his original request for training plan, stated that when he submitted his initial request in November 2015, he was "under the assumption that I needed to file for each semester." Christensen suggested that his goal always had been to attend the community college from January 11, 2016 to May 10, 2017 to complete its welding diploma program.

Christensen also submitted a school facts sheet on which he stated that he was seeking a welding diploma. (amended training request)

On August 2, 2016, IWD issued a decision (reference 00) denying Christensen's request to amend his classroom training because Christensen failed timely to make the request.

On August 22, 2016, Christensen resumed training at the community college with the goal of earning a welding diploma by May 2017. (testimony of Christensen)

REASONING AND CONCLUSIONS OF LAW

Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and the worker's family. See Iowa Code section 96.2.

The State agency shall determine the appropriateness of the length of training . . . the maximum duration for any approvable training program is 130 [as amended] . . . weeks (during which training is conducted) and no individual shall be entitled to more than one training program under a single certification. See 20 CFR section 617.22(f)(2).

In the case at issue, Christensen potentially was entitled to TAA-approved classroom training as a result of Trade Act petition number 85873-1.

As early as November 2015, Christensen chose to attend a community college. The community college offered at least two training programs for students interested in a welding career: a student may complete training leading to a welding certificate; and the student may complete training leading to a welding certificate and welding diploma.

IWD stated that the training leading to a welding certificate and the training leading to a welding certificate and diploma each potentially was approvable training for individual(s) entitled to TAA-approved classroom training.

On or about November 11, 2015, Christensen filed an initial request by worker for training approval and allowances while in training. From January 11, 2016 to May 11, 2016, Christensen would participate in a welding program at the community college. Upon signing the request, Christensen certified to the following:

I further understand that, if this training request is approved by the State Trade Office, any subsequent amendments to this training plan must be requested by me and approved by the State Trade Office before the change occurs and before the conclusion of my initially approved training plan.

On December 11, 2015, IWD approved Christensen's request for TAA-approved classroom training from January 11, 2016 to May 11, 2016.

On May 11, 2016, Christensen completed his training at the community college for a welding certificate and received a welding certificate.

Pursuant to 20 CFR section 617.22(f)(2), no individual shall be entitled to more than one training program under a single certification.

On or about July 29, 2016, Christensen filed a second request by worker for training approval and allowances while in training. From August 22, 2016 to May 10, 2017, Christensen would participate in a welding training program at the community college leading to a welding diploma.

IWD correctly construed Christensen's second request as constituting a request to amend his initial request. Since Christensen failed to make the second request and to receive IWD approval before May 11, 2016, the date on which the initial training plan concluded, the action of IWD denying the second request to participate in a training plan leading to a welding diploma is AFFIRMED. 20 CFR section 617.22(f)(2).

Christensen testified that as early as November 2015, he made it clear to his assigned IWD case manager that Christensen's goal was to earn a welding diploma, not just a welding certificate. Christensen believed that there were few jobs available for

individuals with only a welding certificate and those jobs did not pay as well as jobs available for individuals with a welding certificate and diploma.

As early as November 2015, Christensen believed that for each semester or school year that he participated in his classroom training, Christensen would need to file a new request by worker for training approval and allowances while in training.

Christensen suggested that the case manager, when the case manager filled out Christensen's initial request, erred by not specifying that Christensen's training goal was to earn a welding certificate and diploma and that Christensen would be participating in his training program from January 11, 2016 to May 10, 2017.

Neither IWD nor Christensen called Hadaway as a witness. Neither IWD nor Christensen submitted a statement from Hadaway in which Hadaway acknowledged that in November 2015, Hadaway erred when filling out Christensen's initial request by worker for training approval and allowances while in training.

The Iowa Supreme Court has recognized the doctrine of equitable estoppel:

In general, the doctrine of equitable estoppel is based upon the grounds of public policy, fair dealing, good faith, and justice, and its purpose is to forbid one to speak against his own act, representations, or commitments, to the injury of one to whom they were directed, and who reasonably relied thereon. Laughlin v. Hall, 20 N.W. 2d, 415, 417 (Ia 1945).

As a general rule, the doctrine of equitable estoppel cannot be invoked against the state. Iowa Dept. of Trans. v. Neb.-Iowa Supply, 272 N.W. 2d 6, 14 (Ia 1978).

Even if the judge found that Hadaway erred when filling out Christensen's initial request by worker for training approval and allowances while in training, the judge has no authority to approve Christensen's second request for TAA-training approval based on equitable grounds.

DECISION

IWD correctly denied Christensen's request to amend his previously TAA-approved training program. Its decision dated August 2, 2016, reference 00, is AFFIRMED.

CBT