

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

Appeal Number: 07-IWDUI-053
OC: 04/16/06
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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.

PHILLIP A DEITCHLER
306 MYRTLE STREET
HENDERSON IA 51541

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
CAROL PAULUS
150 DES MOINES STREET
DES MOINES IA 50309-5563

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.

DAN ANDERSON, IWD

(Administrative Law Judge)

April 20, 2007

(Decision Dated & Mailed)

20 CFR 617.22(f)(2) – Length of Training/One Program

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development Department decision dated March 22, 2007, which held the claimant's request to amend his current training plan by adding an additional year is denied.

The hearing was held pursuant to due notice on April 16, 2007, by telephone conference call. The claimant participated. Carol Paulus, TAA/NAFTA Coordinator, participated on behalf of Iowa Workforce Development.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses, and having considered all of the evidence in the record, finds: The claimant filed an unemployment claim with the department in April 2006, and in August he applied for training in the Auto Mechanics program at Iowa Western Community College. The department advised the claimant that it could approve only one training program, which it did with an anticipated completion date of July 27, 2007. The claimant was advised that the department could seek re-payment for the training should he fail to complete it, and this caused the claimant to be cautious about the period of the training regimen.

The claimant submitted a petition/request for TAA approved training/auto Mechanics dated August 2, 2006. The Appellant filed an amendment to his application with the department on March 15, 2007 by requesting that he be allowed to continue his training program to obtain an Associate Arts degree at Iowa Western Community College with an anticipated completion date of July 25, 2008.

While the claimant is expected to earn a certificate of completion for his Auto Mechanics program at the College, he is requesting that he be allowed to continue the program to obtain an Associates Degree in Applied Science/Auto Mechanics in order to enhance his education and employment opportunities.

The department denied the claimant's request to amend his original training program by the issuance of the decision in this case. The federal regulation that applies to the facts in this case states that no individual shall be entitled to more than one training program under a single certification, and there is no provision for amending an initial approved training program for a second certification. TRA Coordinator Paulus noted that should U. S. department of labor officials audit the claimant's file, it would perceive the original Auto Mechanics training program as one certification, and any amendment, as a second program that would subject the claimant to re-payment of any training benefit for it.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is allowed to amend his initial department approved training program.

20 CFR 6.17.22(f)(2) – Length of training. The maximum duration for any approvable training program is 104 weeks (during which training is conducted), and no individual shall be entitled to more than one training program under a single certification.

The administrative law judge concludes that the claimant's request to amend his current training program and add an additional year to acquire an Associates Degree is DENIED, because it constitutes a second training program that is not allowed under a single certification pursuant to the federal regulation cited above. It is understandable that the claimant was hesitant to commit to any training program beyond one year, as he correctly understood that he would be required to repay the training benefit should he fail to complete it. However, the department of labor only permits one training program to a single certification, and the amendment to the initial program constitutes a second training program that is not allowed.

TRA Coordinator Paulus denied the claimant's request knowing that the department of labor would subject him to repayment of the training benefit, if it audited the claimant's file and discovered the extension of the original program. Paulus noted that there is no provision for any waiver or amendment procedure.

DECISION:

The decision of the representative dated March 22, 2007, is AFFIRMED. The claimant's request for an amendment to his current training plan/program is DENIED.

rls