

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

LESLIE A MCCARDELL
310 PETERSON STREET
ALTA, IA 51002-1352

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN ANN CONNER & ANN MILLER

JOE WALSH, IWD
DONNELL ANDERSON, IWD
JONI BENSON, IWD

Appeal Number: 12IWDUI644
OC: 02/26/12
Claimant: Appellant (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 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)

January 25, 2013

(Decision Dated & Mailed)

871 IAC 24.2(1)e – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Leslie McCardell appealed a decision issued by Iowa Workforce Development (IWD), dated November 19, 2012, reference 02, finding she was ineligible to receive unemployment insurance benefits as of November 11, 2012 because she failed to attend a reemployment services orientation workshop on November 13, 2012. Leslie McCardell submitted an appeal from this decision on November 23, 2012.

On November 30, 2012, IWD transmitted the administrative file to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the file, it mailed a copy of the administrative file to Leslie McCardell. On December 19, 2012, the Department of Inspections and Appeals (DIA) sent out a Notice of Telephone Hearing, scheduling a contested case hearing for January 24, 2013.

On January 24, 2013, a contested case hearing was held before Administrative Law Judge Emily Gould Chafa. Leslie McCardell appeared and testified. Ann Conner appeared and testified on behalf of IWD. Exhibits 1 – 8, submitted by IWD and the DIA notice of telephone hearing, were admitted into the record.

ISSUE

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

FINDINGS OF FACT

IWD selected Leslie McCardell to participate in its reemployment services program. IWD sent Leslie McCardell a notice to report to attend a reemployment services assessment appointment on October 4, 2012. Leslie McCardell attended this appointment.

IWD then mailed a Notice to Report for Reemployment Services Orientation on October 16, 2012, notifying McCardell to attend a reemployment services workshop in Cherokee, Iowa on November 13, 2012 from 8:30 am – 12:30 pm. The location, presenter's name and telephone number, and a description of the workshop were included with the notice. (Conner testimony) McCardell did not attend this workshop. She did not call IWD before or after November 13, 2012 to ask whether or not attendance was mandatory.

IWD issued a decision on November 19, 2012, reference 02, finding Leslie McCardell was ineligible to receive unemployment insurance (UI) benefits as of November 11, 2012 because she failed to attend the reemployment services orientation on November 13, 2012.

Leslie McCardell filed an appeal on November 23, 2012. In the letter accompanying her appeal, and in her testimony during the hearing, she stated that she received the letter, the Notice to Report for Reemployment Services Orientation, wondered about it, and thought that this program was optional. She thought it was in Spencer for some reason, even though the notice gave the location in Cherokee, which is closer to her home in Alta. McCardell has an unreliable car and could not travel to Spencer. She disregarded and discarded the notice. She did not call IWD before or after the appointment date to learn whether or not her perception that this orientation was optional was correct. She later acknowledged that she should have called to learn whether or not this workshop was mandatory. She did not do so.

The notice for the November 13, 2012 workshop, the appointment at issue in this case, was not provided to me as an exhibit. However, Ann Conner read the notice into the record during the hearing. She clarified that the notice did not include the word "mandatory." Ms. Conner reiterated that a telephone number is included on the notice with instructions to call with questions. McCardell could have called the number on the notice, or could have called her, to ask if the workshop was mandatory or optional. Ms. Conner suggested that McCardell call IWD with this type of question in the future.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.¹ Reemployment services may include: (1) an assessment of the claimant's aptitude, work history, and interest; (2) employment counseling; (3) job search and placement assistance; (4) labor market information; (5) job search workshops or job clubs and referrals to employers; (6) resume preparation; and (7) other similar services.²

In order to maintain continuing eligibility for benefits, an individual is required to report to IWD as directed.³ Specifically, a claimant is required to participate in reemployment services when referred by IWD, unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed the training or services.⁴ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁵ "Justifiable cause for failure to participate 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."⁶

Leslie McCardell testified that she missed the November 13 appointment because she mistakenly believed that it was optional. She did not call IWD before that date to clarify whether or not her perception was correct or incorrect. She did not read the notice carefully, as she mistakenly believed that the appointment was in Spencer, when the notice clearly gave its location in Cherokee, which is much closer to her home in Alta. She discarded or misplaced the notice.

Leslie McCardell did not establish justifiable cause for missing the November 13, 2012 appointment. She did not comply with the requirements of the EUC (extended unemployment compensation) program. IWD's decision is affirmed.

DECISION

IWD's decision, dated November 19, 2012, reference 02, is AFFIRMED.
egc

¹ 871 Iowa Administrative Code (IAC) 24.6(1).

² 871 IAC 24.6(3).

³ 871 IAC 24.2(1)e.

⁴ 871 IAC 24.6(6).

⁵ 871 IAC 24.6(6).

⁶ 871 IAC 24.6(6)a.