

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

Appeal Number: 12IWDUI562
OC: 07/25/10
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 Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.**

SHAWN P HARRINGTON
605 VALHIGH RD
WEST DES MOINES, IA 50265

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

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & RUBY RIVERA

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.

JOE WALSH, IWD
DONNELL ANDERSON, IWD

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)

December 24, 2012

(Decision Dated & Mailed)

871 IAC 24.2(1)e – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Shawn Harrington appealed a decision issued by Iowa Workforce Development (“IWD”), dated October 5, 2012, reference 03, finding he was ineligible to receive unemployment insurance benefits as of September 30, 2012 because he failed to attend a reemployment services orientation on October 3, 2012. Shawn Harrington submitted an appeal from this decision on October 15, 2012.

On October 22, 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 Shawn Harrington. On November 6, 2012, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for December 21, 2012.

On December 21, 2012, a contested case hearing was held before Administrative Law Judge Emily Gould Chafa. Shawn Harrington appeared and testified. Shanlyn Seivert appeared and testified on behalf of IWD. Exhibits 1 – 6, submitted by IWD and the 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 Shawn Harrington to participate in its reemployment services program. IWD sent Shawn Harrington a notice in September, 2012, to report to attend a reemployment services assessment appointment on October 3, 2012. Shawn Harrington did not attend the appointment. IWD issued a decision on October 5, 2012, reference 03, finding Shawn Harrington was ineligible to receive unemployment insurance (UI) benefits as of September 30, 2012 because he failed to attend the reemployment services appointment on October 3, 2012.

Shawn Harrington filed an appeal on October 15, 2012. In his appeal, and in his testimony during the hearing, he stated that he misinterpreted the letter as telling him that this program was optional, and would result in additional unemployment insurance benefits beyond the amount he already received. He did not need these additional benefits, so he did not attend the assessment appointment. He did not contact IWD before the appointment date to learn whether or not his perception was correct. After he received the October 5, 2012, notice of decision denying his UI benefits because he failed to attend this required assessment appointment on October 3, 2012, Harrington contacted IWD. He attended a rescheduled assessment appointment on October 23, 2012. His UI benefits were reinstated for that week. He began working in his current job on October 29, 2012. At the hearing, Harrington clarified that he was appealing the denial of his UI benefits for the two week period from October 4 to October 22, 2012.

Shanlyn Seivert clarified that the standard notice for these reemployment services assessment appointments clearly state that UI benefits will stop if the person fails to attend the appointment as scheduled. The standard notice instructs the recipient to contact the telephone number listed on the notice before the appointment date if he or she is unable to attend. Ms. Seivert explained that the EUC (extended unemployment compensation) benefits program required recipients to attend these reemployment services appointments in order to remain eligible for these extended UI benefits. Ms. Seivert explained that the assessment appointment was not optional, but is a required part of the federally mandated program.

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

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

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

Shawn Harrington testified that he missed the appointment because he mistakenly believed that it was not necessary to attend the assessment appointment on October 3, 2012. He did not call IWD before the appointment date to clarify whether or not his perception was correct or incorrect. He did not hear anything from IWD regarding this appointment until he received the notice of decision dated October 5, 2012. He filed this appeal and then attended a rescheduled assessment appointment on October 23, 2012. His UI benefits were locked for a two week period, from October 4, 2012 until October 22, 2012. Shawn Harrington did not establish justifiable cause for missing the October 5, 2012 appointment. He did not comply with the requirements of the EUC (extended unemployment compensation) program. IWD’s decision is affirmed.

DECISION

IWD’s decision, dated October 5, 2012, reference 03, is **AFFIRMED**.
egc

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.