

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

NORMA L. CERDA
3853 WILKES AVE APT 1
DAVENPORT, IA 52806-5414

**IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVICES
COORDINATOR
RONEE SLAGLE & DAVID HARTMAN**

JONI BENSON, IWD
NICK OLIVENCIA, IWD
EMILY CHAFA, IWD

Appeal Number: 17IWDUI271
OC: 12/25/16
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)

June 16, 2017

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Norma L. Cerda filed an appeal from a decision issued by Iowa Workforce Development (IWD) on March 3, 2017 (Reference 04). The decision determined that Ms. Nielsen was not eligible to receive unemployment benefits as of February 26, 2017 because she was mailed a notice to report for a reemployment and eligibility assessment on March 2, 2017 but did not report.

On March 23, 2017, the appeal was transmitted from IWD to the Department of Inspections and Appeals to schedule a contested case hearing. A telephone appeal hearing was held before Administrative Law Judge Margaret LaMarche on June 15, 2017 at 10:35 a.m. Iowa Workforce Advisor David Hartman did not appear for the hearing. Appellant Norma L. Cerda appeared for the hearing and was self-represented. Ms. Cerda acknowledged that she received documents from IWD that pertained to the appeal. The documents in the file were identified, and Exhibits 1-4 were marked and admitted into the record without objection. The record also includes the Notice of Appeal and Confirmation of Appeal; two Appeals Section Memos dated March 16, 2017 (one to Norma Cerda with the hearing documents and one to David Hartman); the Transmittal of Appeal to the Department of Inspections and Appeals; and the Notice of Telephone Hearing.

ISSUE

Whether IWD correctly determined that Norma Cerda is ineligible to receive unemployment insurance benefits because she failed to participate in reemployment services without justifiable cause.

FINDINGS OF FACT

Norma L. Cerda filed a claim for unemployment insurance benefits with an effective date of December 25, 2016. On February 7, 2017, IWD sent Ms. Cerda a Notice to Report for a Re-employment Services and Eligibility Assessment (RESEA) Workshop on February 16, 2017 from 12:45 PM to 4:00 PM. (Exhibits 1, 3) Ms. Cerda admits that she did not attend this workshop because she forgot about it. She contacted IWD the same day and asked to reschedule. (Cerda testimony; Exhibit 2)

On February 16, 2017, IWD sent Norma Cerda a Notice to Report for a Re-employment Services and Eligibility Assessment (RESEA) Workshop on March 2, 2017 from 8:30 AM to 12:00 PM. (Exhibit 4) Ms. Cerda did not deny that she received this notice, and she admits that she did not attend the workshop on March 2, 2017 because she had overslept. Ms. Cerda explained that she started college on March 1, 2017 and had class that evening from 6:00 p.m. to 8:30 p.m. After class, Ms. Cerda stayed up late studying and then overslept the following morning. By the time she woke up and called IWD, it was too late for her to attend the workshop. (Cerda testimony; Notice of Appeal)

On March 3, 2017, IWD sent Ms. Cerda a decision informing her that her unemployment benefits were denied effective February 26, 2017 and continuing until she reported for her assessment. In her appeal dated March 10, 2017, Ms. Cerda stated that the class was rescheduled for March 9, 2017, but she could not attend because she started a job that day. (Exhibit 1; Notice of Appeal)

REASONING AND CONCLUSIONS OF LAW

Iowa Workforce Development (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

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.³ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁴ "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."⁵

Norma Cerda failed to establish justifiable cause for her failure to attend the March 2, 2017 reemployment and eligibility assessment workshop. Oversleeping does not constitute an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to Ms. Cerda. Based on this record, IWD's decision must be affirmed.

DECISION

Iowa Workforce Development's decision dated March 3, 2017, reference 04, is **AFFIRMED**. IWD shall take any action necessary to implement this decision.

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¹ 871 IAC 24.6(1).

² 871 IAC 24.6(3).

³ 871 IAC 24.6(6).

⁴ *Id.*

⁵ 871 IAC 24.6(6)"a."