

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

Appeal Number: 08-IWDUI-025
OC: 10/28/07
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.

PAUL A BILLINGS
1020 N TENTH AVENUE E
NEWTON IA 50208-2221

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
CAROL PAULUS TRA/WIA ADMINISTRATOR
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)

February 29, 2008

(Decision Dated & Mailed)

20 CFR 617.25 – Limitations of Training/Cost Reimbursement
20 CFR 617.28(c)(3) – Transportation Payments

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development Department decision dated January 31, 2008, which denied the claimant's reimbursement requests for the payment of a physical examination and transportation allowance.

A telephone conference hearing was scheduled for February 27, 2008, pursuant to due notice. The claimant did not participate. Carol Paulus, TAA/WIA Administrator, submitted written documentation (Exhibits One and Two) in lieu of participation in the hearing.

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 effective October 28, 2007. The claimant's qualifying separation from Maytag occurred on October 26, 2007.

The claimant submitted a training plan dated October 31, 2007 that was approved by the department on November 16, 2007. The claimant was approved to attend transportation classes at the Des Moines Area Community College for the purpose of obtaining a Commercial Drivers License to begin on November 12, 2007, and end on December 21, 2007.

The Trade Act benefits do provide for a transportation allowance to assist individuals in commuting to and from school class, and the claimant noted that the roundtrip distance from his residence to the school is seventy-four (74) miles.

The claimant submitted a transportation allowance request to the department in the amount of \$6.79 for his fourteen-mile trip to the Concentra Medical Center for a drug screen test, and \$10.20 for his three, seven-mile trips to the driver's license station. The claimant also submitted to the department a request to be reimbursed for the cost of a physical examination (for commercial driver fitness) in the amount of \$125 that occurred at the Newton Clinic on April 10, 2007.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the claimant should be reimbursed for the cost of a physical examination that occurred on April 10, 2007.

Sec. 617.25 Limitations on training under Subpart C of this part.

The second sentence of amended section 236(a)(1) of the Act provides that an adversely affected worker shall be entitled to have payment of the costs of training approved under the Act paid on the worker's behalf, subject, however, "to the limitations imposed by" section 236. The limitations in section 236 which are implemented in this section concern the restrictions on approval of training which are related directly or indirectly to the conditions on training which are approvable or on the funding of training costs.

(ii) Application. (A) Although paragraph (6) of section 236(a) of the Act is expressed in terms of the costs not being required to be paid from TAA funds, it authorizes the mixing of TAA funds and funds from any other Federal, State or private source. Therefore, sharing the future costs of training is authorized where prior costs were paid from another Federal, State or private source, but this does not authorize reimbursement from TAA funds of any training costs which were incurred and for which payment became due prior to the approval of the training program under Subpart C of this part.

The further issue is whether the claimant should be reimbursed for transportation trips to the driver's license station/drug screen facility.

Sec. 617.28 Transportation payments.

(a) Eligibility. A trainee under this subpart C shall be afforded supplemental assistance necessary to pay transportation expenses if the training is outside the commuting area, ...

(b) Amount. A transportation allowance shall not exceed the lesser of:

(1) The actual cost for travel by the least expensive means of transportation reasonably available between the trainee's home and the training facility; or

(2) The cost per mile at the prevailing mileage rate authorized under the Federal travel regulations. See 41 CFR part 101-7.

(c) Travel included. Travel for which a transportation allowance shall be paid includes travel:

(1) At the beginning and end of the training program;

(2) When the trainee fails for good cause, as described in Sec. 617.18(b)(2), to complete the training program; and

(3) For daily commuting, in lieu of subsistence, but not exceeding the amount otherwise payable as subsistence for each day of commuting.

The administrative law judge concludes that the department correctly denied the claimant's request(s) for both transportation allowance and pre-training medical examination pursuant to the law sections cited above. The law does not allow for any pre-training (November 2007) approved expense (April 10, 2007 medical exam), as well of any expense that pre-dates the qualifying separation from employment (October 26, 2007). In addition, the transportation allowance is limited to the commuting distance to and from school and residence.

DECISION:

The decision of the representative dated January 31, 2008, is **AFFIRMED**. The claimant's request for transportation allowance and medical exam reimbursement, is **DENIED**.

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