

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

Appeal Number: 11IWDUI235
OC: 08/09/11
Claimant: Appellant (2)

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.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

AMANDA AUTEN
709 E CHESTNUT
CLARINDA, IA 51632

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT
430 EAST GRAND AVENUE
DES MOINES, IA 50319-0209

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.

JOE WALSH, IWD

(Administrative Law Judge)

September 29, 2011

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant Amanda Auten filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated August 9, 2011, reference 06. IWD determined Auten was not eligible to receive unemployment insurance benefits from as of July 31, 2011 because she failed to report to her local IWD center after receiving a notice to report.

IWD transmitted the case to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Auten.

A contested case hearing was held on September 29, 2010. Exhibits 1 through 13 were admitted into the record. Auten appeared and testified. Robert Thompson appeared and testified on behalf of IWD.

ISSUES

Whether IWD correctly determined the Claimant failed to meet the availability requirements for the reemployment services program.

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

FINDINGS OF FACT

IWD scheduled Auten to attend reemployment services many times. Her fourth and last appointment was scheduled for August 4, 2011 at 9:30 a.m. Auten did not call or attend the appointment. Auten did not call or attend the previous three appointments.

Auten is court-ordered to attend treatment services through Zion Recovery Services, Inc. Marcy Nally, OPC through Zion Recovery Services, Inc. prepared a Progress Report stating Auten was required to attend court-ordered sessions and was in attendance on August 4, 2011.

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

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 According to Nally's Progress Report Auten was attending court-ordered treatment services on August 4, 2011. Auten has established justifiable cause for failing to attend reemployment services, and thus should not be disqualified for failing to meet the availability requirements based on the failure to attend the August 4, 2011 appointment. IWD's decision is reversed.

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6)a.

DECISION

IWD's decision dated August 9, 2011, reference 06, is reversed.

hlp