

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEPHANIE D BOHAN
Claimant

APPEAL 19A-UI-01059-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/09/18
Claimant: Appellant (1)

Iowa Code § 96.4(6)a – Department Approved Training (DAT)
Iowa Admin. Code r. 871-24.39(2) – DAT – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 28, 2019, (reference 03), unemployment insurance decision that found claimant ineligible for Department Approved Training. After due notice was issued, a telephone conference hearing was scheduled to be held on February 21, 2019. Claimant participated. Department's Exhibit D-1 was received.

ISSUE:

Is the claimant eligible for Department Approved Training?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for benefits effective December 9, 2018. On January 23, 2019, claimant applied for department approved training. On January 14, 2019, claimant began attending school at Iowa Lakes Community College to become a registered nurse. The anticipated training completion date is May 2021. Claimant is enrolled in 11 credit hours and is taking the classes online, as opposed to in-person.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for DAT.

Iowa Code section 96.4(6)a-b provides:

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. (1) An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. section 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. section 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

In this case, the Iowa Workforce Development representative denied claimant's request for Department Approved Training because the claimant is able to and available for work in the same capacity and work schedule as when the base period wages were earned. The September 7, 2017, version of the administrative rules required claimants to search for work if the hours of training were outside the regular hours of work during the base period. However, that requirement was removed from the administrative rules on February 7, 2018.

The administrative rule governing Department Approved Training that is currently in effect provides:

Department-approved training or retraining program. The intent of the department-approved training is to allow for claimants to return to the labor market after attending vocational training while being paid unemployment insurance benefits. Vocational training is nonacademic, skill-oriented training that provides the student with job tools and skills that can be used in the workplace. Vocational training includes technical, skill-based, or job readiness training intended for pursuing a career. Upon approval from the department, the claimant shall be exempt from the work search requirement for continued eligibility for benefits. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) The claimant must make application to the department setting out the following:

- a. The educational establishment at which the claimant would receive training.
- b. The estimated time required for such training.
- c. The date the training will be complete or the degree will be obtained.
- d. The occupation which the training is allowing the claimant to maintain or pursue.
- e. The training plan, indicating the requirements which must be met in order to complete the certification or degree.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department, under the following conditions:

- a. The educational establishment must be a college, university or technical training institution.
- b. The training must be completed 104 weeks or less from the start date.

c. The individual must be enrolled and attending the training program as a full-time student.

While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

Iowa Admin. Code r. 871-24.39.

The claimant does not meet the eligibility requirements for department approved training because claimant is not a full-time student. Although claimant testified that Iowa Lakes Community College considers a student taking 11 credit hours to be a full-time student, I do not find that testimony credible. Generally, colleges require a student to be enrolled in 12 credit hours in order to be considered a full-time student. Even if claimant were a full-time student, the training will not be completed within the required timeframe of 104 weeks. Therefore, while the claimant's desire for additional education is understandable and admirable, department approved training must be denied.

DECISION:

The January 28, 2019, (reference 03) unemployment insurance decision is affirmed. Claimant is not eligible for DAT.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn