

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

---

**REGINA M BURR**  
Claimant

**APPEAL NO. 23A-UI-04689-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/12/23  
Claimant: Appellant (2)**

---

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.4(7) – Reemployment Services  
871 IAC 24.2(1)(e) – Failure to Report as Directed

**STATEMENT OF THE CASE:**

On May 5, 2023, Regina Burr (claimant) filed a timely appeal from the May 1, 2023 (reference 02) decision that denied benefits effective April 23, 2023, based on the Iowa Workforce Development representative's conclusion that the claimant failed to report as directed for an April 25, 2023 reemployment and eligibility assessment [RESEA] appointment and therefore did not meet the availability requirements. After due notice was issued, a hearing was held on May 24, 2023. Claimant participated. Andrea Weekley represented Iowa Workforce Development. The parties waived hearing notice defects and 10-day notice concerning omission of the Able & Available issue and Iowa Code section 96.4(3), the able and available statute, from the hearing notice. Exhibits 1, 2, 4, A and B were received into evidence. Exhibit 3 was not received into evidence, but only because it duplicated the claimant's Exhibit B. The administrative law judge took official notice of the following Agency administrative records: KCCO and DBRO. The administrative law judge has also taken official notice of the Unemployment Insurance Claimant Handbook 2022 and the additional Iowa Workforce Development website information pertaining to Reemployment Case Management (RCM).

**ISSUES:**

Whether the claimant failed to report to Iowa Workforce Development as directed for Reemployment and Eligibility Assessment (RESEA) on April 25, 2023 and therefore did not meet the available for work requirements effective April 23, 2023.

Whether the claimant otherwise failed to report as directed for a Reemployment Case Management requirement on April 25, 2023 and therefore did not meet the available for work requirements effective April 23, 2023.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Regina Burr (claimant) established an original claim for benefits that was effective March 12, 2023. The claimant made weekly claims for each of the weeks between March 12, 2023 and May 6, 2023.

On April 11, 2023, the claimant participated in an initial Reemployment Case Management (RCM) appointment with RCM Career Planner Jeff Griffin. During the telephone meeting, Mr. Griffin discussed with the claimant a requirement that she participate in a video conference Resume Workshop on April 13, 2023 at 9:00 a.m. and a video conference Interview Workshop on April 25, 2023 at 9:00 a.m. At the time the meeting concluded, the claimant understood that she was required to participate in the two video-conference workshops as a condition for continuing her eligibility for unemployment insurance benefits.

After the April 11, 2023 RCM appointment concluded, Mr. Griffin sent an email message to the claimant that afternoon. Attached to the email message was an unsigned Re-Employment Services Agreement. The Agreement stated as follows:

**Re-Employment Services Agreement**

During your RCM Appointment, you agreed that you would complete the following activities by their respective due dates.

**Attend Resume Workshop via zoom on 04/13/2023 at 9:00am**

**Attend Interview Workshop via zoom on 04/25/2023 at 9:00am**

Please check your email for links to any virtual meetings and workshops, if you don't see them please contact your RCM Career Planner before the scheduled meeting/workshop.

...

**I understand that, if I do not complete scheduled RCM activities within the agreed upon timeframe, it may result in the denial of unemployment insurance benefits or the suspension of unemployment benefits until all requirements are met.** If there are circumstances that prevent you from attending and completing the above listed activities, please contact the advisor listed below at the phone number provided to discuss your options. **You must do so prior to the due dates of your scheduled activities.**

The Agreement document was dated 4/11/2023. The Agreement document included a place for the claimant's signature, but no signature. The Agreement document included Mr. Griffin's name, title, phone number with extension, and email address.

The April 11, 2023 email message set forth the workshops the claimant had agreed to participate in and instructions on how to join the video conference workshops.

The claimant participated in the April 13, 2023 Resume Workshop as scheduled.

The claimant did not participate in the April 25, 2023 Interview Workshop. The claimant did not give notice to IWD that she could not attend the April 25, 2023 Interview Workshop as scheduled.

On April 24, 2023, the claimant participated in a Reemployment Services and Eligibility Assessment (RESEA) Essential Skills virtual workshop.

The claimant confused the April 24, 2023 RESEA Essential Skills workshop with the April 25, 2023 RCM Interview Workshop. The claimant erroneously concluded she had satisfied April 25, 2023 required workshop by participating in the April 24, 2023 required workshop.

During the week of April 23-29, 2023, the claimant applied for three jobs and completed two additional reemployment activities, including the April 24, 2023 Essential Skills workshop and a job interview. Aside from the failure to appear for the April 25, 2023 Interview Workshop, the

claimant remained otherwise able to work, available for work, and engaged in an active and earnest search for new employment.

After the claimant was absent from April 25, 2023 Interview Workshop without notice, Mr. Griffin entered the reference 02 decision that disqualified the claimant for benefits effective April 23, 2023. The decision was mailed on May 1, 2023.

The claimant did not realize her error in missing the April 25, 2023 workshop until she received the reference 02 disqualification decision.

On May 5, 2023, the claimant sent an email message to Mr. Griffin. The claimant at first asked whether she had missed an April 25, 2023 workshop. The claimant offered to make up the class. The claimant stated she would be starting a new job on Monday, May 8, 2023, but that she would happily make up the class. Mr. Griffin replied that benefits had been stopped because the claimant had missed a workshop on April 25, 2023. Mr. Griffin stated the workshop was next offered on May 9, 2023 and asked whether the claimant would like him to register her for the class. The claimant replied that she would make up the class if it would allow for retroactive benefits. The claimant stated she thought she was pretty smart, but that the unemployment system was a little confusing. Mr. Griffin replied that the account (claim) would only reopen (unlock) once the claimant attended the workshop and that retroactive benefits were not possible. The discussion ended at that point. The claimant commenced her new employment on May 8, 2023 and did not make up the missed Interview Workshop.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. ...

In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. Iowa Administrative Code rule 871-24.2(1)(e). Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements. Iowa Administrative Code rule 871-24.23(11).

Iowa Code section 96.4(7) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

7. The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Iowa Code section 96.4(7) is about the RESEA requirements. Iowa Code section 96.4(7) predates IWD's January 2022 implementation of the RCM requirements. This conclusion is supported by enactment of Iowa Admin. Code r. 871-24.6(1-6), which provides:

Reemployment services and eligibility assessment procedure.

(1) The department of workforce development will provide a program which consists of profiling claimants and providing reemployment services.

(1) Purpose.

a Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

(3) Reemployment services and eligibility assessment may include, but are not limited to, the following:

- a. An assessment of the claimant's aptitude, work history, and interest.
- b. Employment counseling regarding reemployment approaches and plans.
- c. Job search assistance and job placement services.
- d. Labor market information.
- e. Job search workshops or job clubs and referrals to employers.
- f. Résumé preparation.
- g. Other similar services.

(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause..

- a. 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. Justifiable cause

includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.

To the best of this administrative law judge's knowledge, the Iowa Legislature has not passed a law enacting the RCM requirements. Nor has IWD enacted Administrative Code rules pertaining to the RCM requirements.

The 2022 Unemployment Insurance Claimant Handbook addresses Reemployment Services and Eligibility Assessment (RESEA) as follows:

## **REEMPLOYMENT SERVICES**

Studies completed by the U.S. Department of Labor found that people who received reemployment services returned to work earlier than people who did not receive services.

We use profiling to select individuals who are required to look for work to participate in Reemployment Services and Eligibility Assessment (RESEA). We look at a variety of factors such as occupation, industry, education, length of employment, wages, etc. Participants are selected within the first five paid weeks of their claim.

RESEA is designed to assure that you are registered for work and to provide customized reemployment services. **If selected, participation is mandatory and is a condition of eligibility for unemployment insurance benefits. If you do not participate, it could result in a denial of benefits.**

You will receive a letter informing you where to report and what documents to bring. You must contact your RESEA Advisor prior to your scheduled appointment if you are unable to attend. Appointments may be rescheduled for justifiable cause.

This program is an overall eligibility assessment review of your unemployment insurance claim. You meet one-on-one with a RESEA Advisor to:

- Discuss benefits and requirements of the RESEA program including how non-participation can affect your unemployment insurance benefits
- Assess your unemployment insurance eligibility and address any possible issues
- Review your work searches and discuss your work search process
- Provide you with Labor Market Information (LMI)
- Review your resume and provide feedback
- Review your registration in IWorks to ensure that it is properly completed
- Schedule you for an IowaWORKS Center Orientation workshop
- Schedule you for one additional workshop of your choice to be completed within 30 calendar days of RESEA assessment
- Refer you to additional reemployment services/activities such as: resume writing, Future Ready Iowa, WIOA, ex-offenders services, etc. when employment barriers exist

- Develop or revise Initial Service Plan (ISP) that will include work search activities, accessing services provided through IowaWORKS and self-service tools

Unemployment Insurance Claimant Handbook 2022, Additional Information, Reemployment Services.

The 2022 Unemployment Insurance Claimant Handbook does not appear to address Reemployment Case Management (RCM). Rather, information pertaining to RCM appears elsewhere on the Iowa Workforce Development website. For example, the following reference to RCM appears under the heading UNEMPLOYMENT INSURANCE & IOWAWORKS REEMPLOYMENT ACTIVITIES REQUIREMENTS:

**Complete at Least 4 Valid Reemployment Activities Per Week, 3 of which MUST be Job Applications**

- There are 12 qualifying reemployment activities that can be used to satisfy the requirement to actively search for work. See the **full list of Iowa's valid reemployment activities**.
- If selected, you must complete the Reemployment Services and Eligibility Assessment (RESEA) workshop *and work with your Reemployment Case Management (RCM) case manager*. During the RESEA appointment, you will work with a case manager to develop an individual reemployment plan. Completion of the RESEA workshop and/or *meeting with your RCM case manager* can be counted as one valid reemployment activity, but only for the week in which the activity is completed.

[Italicized emphasis added. Bold text is in the original.] See <https://www.iowaworkforcedevelopment.gov/iowa-work-search-requirements-uirex>.

In another area of the IWD website, IWD offers answers to frequently asked questions regarding RCM. However, the claimant would have to figure out the terminology to search for and where to look on the website to get to the information. See <https://www.iowaworkforcedevelopment.gov/rcm-faq>.

The weight of the evidence indicates Ms. Burr made a good faith error when she confused the April 24 and 25 appointments and thereby failed to appear for the April 25 appointment. It is no surprise that Ms. Burr confused the April 24, 2023 RESEA workshop requirement with the April 25, 2023 RCM workshop requirement. The RCM Career Planner demonstrated similar confusion in issuing the May 1, 2023 (reference 02) decision. The decision erroneously refers to a failure to participate in RESEA programming on April 25, 2023. However, the program set for that date was RCM, not RESEA. The reference 02 decision erroneously cites the RESEA Administrative Code Rule as authority for the decision, but that Rule does not apply to the RCM programming. One should also factor the absence of a signed RCM agreement. IWD contributed to The conclusion that the claimant's error was in good faith is reflected in her completion of the April 13 programming, her completion of the April 24 programming, her active and earnest search for new employment during the week in question, and her subsequent attainment of new employment shortly thereafter. In other words, the claimant was able to work, available for work, and actively and earnestly seeking for new employment. The totality of the

circumstances provides a good cause basis for the claimant's failure to appear for the RCM workshop on April 25, 2023 and failure to notify IWD prior to the workshop. No disqualification shall enter based on the claimant's failure to appear for the April 25, 2023 RCM workshop. There was no failure to appear for RESEA programming on April 25, 2023.

**DECISION:**

The May 1, 2023 (reference 02) decision is REVERSED. The claimant was not directed to appear for RESEA programming on April 25, 2023 and did not fail to appear for RESEA programming on that date. The claimant had a good cause basis for failing to report for RCM programming on April 25, 2023. No disqualification shall enter based on the claimant's failure to appear for the April 25, 2023 RCM workshop. The claimant was able to work, available for work, and engaged in an active and earnest search for new employment during the period beginning April 23, 2023. The claimant is eligible for benefits for the period beginning April 23, 2023, provided she is otherwise eligible.



---

James E. Timberland  
Administrative Law Judge

June 1, 2023  
Decision Dated and Mailed

jet/mh

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

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.

**AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. 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.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.



**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.