

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MELINDA L ALEXANDER**  
Claimant

**APPEAL 18A-UI-06433-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 10/29/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.4(6)a – Department Approved Training  
Iowa Admin. Code r. 871-24.39 – Department Approved Training

**STATEMENT OF THE CASE:**

Melinda L. Alexander (claimant) appealed the May 24, 2018, reference 06, unemployment insurance decision that denied department approved training. After due notice was issued, a telephone hearing was held on June 27, 2018. The claimant participated. The administrative law judge took official notice of the administrative record, including fact-finding documents.

**ISSUES:**

Is the appeal timely?

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: The claimant filed a claim for benefits effective October 29, 2017. She applied for department-approved training and training extension benefits on May 22, 2018. The claimant is enrolled full-time in a program to obtain a Masters' in Social Work through Walden University. She began the program in November 2016 and is scheduled to finish in August 2019. The claimant has been satisfactorily attending classes and has the necessary finances to complete the training.

The unemployment insurance decision was mailed to the appellant's address of record on May 24, 2018. The appellant received the decision within two or three days. She contacted Iowa Workforce Development (IWD) to ask about the status of her training extension benefit application which she filed at the same time. The claimant was told to resubmit her applications for both programs which she did. IWD did not advise the claimant to file an appeal to the denial of department approved training. IWD representatives also did not explain to her that her eligibility for training extension benefits could be impacted by her eligibility for department

approved training. The appeal was sent within ten days after receipt of the decision denying the claimant's request for training extension benefits was mailed.

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

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely, but she is not eligible for department approved training.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant's failure to file an appeal within the appeal period was due to incorrect or incomplete information received from an IWD customer service advisor. The claimant's delay was prompted by and perpetuated by the agency. See, Iowa Admin. Code r. 871-24.35(2). Therefore, the appeal shall be accepted as timely.

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

Required findings.

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.

Iowa Admin. Code r. 871-24.39 provides:

Department-approved training. The intent of department-approved training is to allow for claimants to return to the labor market after attending vocational training while being paid unemployment insurance benefits. Vocation 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 a 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 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, be 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 prior to being considered for a subsequent approval and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

The claimant does not meet the eligibility requirements for department-approved training because the training being sought is academic, and not vocational, in nature. Additionally, it will

not be completed in 104 weeks or less. Therefore, while the claimant's desire for additional education is understandable and admirable, department approved training must be denied.

**DECISION:**

The claimant's appeal is timely. The May 24, 2018, reference 06, unemployment insurance decision is affirmed. The claimant is not eligible for department approved training.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

src/scn