

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

**Appeal Number: 15IWDUI182**  
**OC: 3/29/2015**  
**Claimant: Appellant (2)**

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**CLAIMANT:**  
**CARIN HORNE**  
**2117 CATHEDRAL AVENUE APT. 2**  
**CINCINNATI, OH 45212**

**IOWA WORKFORCE DEVELOPMENT:**  
**JONI BENSON, IWD**  
**JODI DOUGLAS, IWD**  
**VELMA SALLIS, IWD**

**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.

**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.

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.

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(Administrative Law Judge)

June 29, 2015

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(Dated and Mailed)

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871 Iowa Administrative Code § 24.2(1)(e) – Reemployment Services  
871 Iowa Administrative Code § 24.11  
871 Iowa Administrative Code § 24.6(6)

**STATEMENT OF THE CASE**

The Claimant Carin Horne (“Horne”) filed an appeal from an April 23, 2015, decision, Ref 02, by the Iowa Work Force Development (“IWD”) that found she was ineligible to receive unemployment benefits because she failed to report for a scheduled Reemployment and Eligibility Assessment appointment on April 21, 2015. The hearing in this matter was held on June 23, 2015. Horne appeared on her own behalf and testified. Velma Sallis appeared on behalf of IWD and testified. Official notice

was taken of the administrative file, and IWD's Appeal Summary and supporting exhibits were admitted into the record. The matter is now fully submitted.

### **ISSUE**

The issues are: (1) whether IWD correctly determined the claimant is ineligible to receive unemployment insurance benefits; and (2) whether IWD correctly determined that the claimant did not establish justifiable cause for failing to participate in reemployment services.

### **FINDING OF FACTS**

The pertinent facts are undisputed. On April 9, 2015, IWD sent Horne a letter scheduling her for a Reemployment and Eligibility Assessment appointment on April 21, 2015, at 9:45 a.m. Ex. 1. Horne left the state on or about April 15, 2015, before receiving the letter in order to attend a job interview and otherwise search for jobs in Ohio. As a result, Horne missed the April 21, 2015 appointment, and IWD issued a decision on April 23, 2015, stating that she was no longer eligible to receive benefits starting on April 19, 2015, until she reported for the assessment. Horne eventually returned to Iowa on April 28, 2015, and discovered the letter on April 30, 2015, after which she contacted IWD and left a voicemail concerning the matter. Ex. 8, at p. 3. IWD returned her call on May 1, 2015, at which point a separate, required workshop was scheduled. Appeal Summary, at p. 2. In the ensuing days, Horne informed IWD that she was moving to Ohio, and IWD pursued a distance hardship option that allowed Horne to resume benefits on May 10, 2015.

Seeking to secure benefits from the April 19, 2015 to May 10, 2015, Horne appealed the April 23, 2015, decision denying further benefits until she attended the requisite assessment interview. On appeal, she primarily argues that she did not receive proper notice of the April 21, 2015, because IWD did not contact her before scheduling the appointment, IWD did not inform her of the appointment by any means other than mail, and IWD did not send a reminder of the appointment as they did with the workshop IWD scheduled. Horne also argued that she should be excused from attending the appointment because she did not receive actual notice until after the appointment. In response, IWD primarily argues that mailing is sufficient notice and that, without a call prior to the date, there is no exception for failing to attend an appointment. IWD also argues in passing that Horne should have informed them before going to Ohio, because her length of stay in Ohio would make her otherwise ineligible for benefits.

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

IWD and the Department of Economic Development jointly provide a reemployment services program. 871 Iowa Administrative Code ("I.A.C.") § 24.6(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. Id. § 24.6(3).

In order to maintain continuing eligibility for benefits, an individual is required to report to IWD as directed. Id. § 24.2(1)(e). Specifically, 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. Id. § 24.6(6)(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.” Id. § 24.6.(6)(a).

In this case, Horne has established justifiable cause for not attending the April 21, 2015, appointment because she did not receive actual notice of it prior to the date of the appointment. As an initial matter, IWD did issue proper notice of the appointment, because there is no requirement for IWD to consult with Horne prior to scheduling an appointment or notify her by any means other than mail. See, e.g., id. 24.2(1)(e) (imposing no such requirements when requiring individuals to “report as directed to do so by an authorized representative of the department”). However, just because proper notice is sent, this does not mean that any failure to attend the appointment is fatal to the continuation of benefits as IWD claims. As noted above, an absence at an appointment may be excused if there was an “an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant.” Id. § 24.6.(6)(a). Here, Horne meets this exception, because she did not receive actual notice until after the appointment and because, upon receiving notice, she promptly called IWD concerning the matter. Further, Horne’s reason for not being at her residence to receive the notice was her earnest efforts to look for employment in a potentially superior job market for her skills. Such actively should not be held against her, particularly when there is no suggestion that Horne attempted in any fashion to ignore or disregard IWD communications or requirements. This is not a case where an individual deliberately ignored mail from IWD or deliberately chose to ignore the appointment. To the extent that Horne was ineligible for benefits due to being out of the state or not informing it of being out of state, this was not the basis for IWD’s decision as IWD maintains that there is no exception to missing meetings absent prior notification, and IWD’s new argument goes more to whether Horne was otherwise eligible for benefits and not whether justifiable cause existed. IWD will have to make this determination as to whether Horne was otherwise eligible, as the decision is REVERSED.

### **DECISION AND ORDER**

IWD’s decision in this matter is REVERSED. IWD shall determine if Horne was otherwise eligible for benefits during the requisite time period, and shall take all necessary measures to effectuate this decision.

JMG