

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

INA M LEWIS
Claimant

APPEAL NO. 09A-UI-11260-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 07/15/07
Claimant: Appellant (3)**

Section 96.3(5)b – Training Extension Benefits

STATEMENT OF THE CASE:

Ina Lewis filed an appeal from a representative's decision dated July 27, 2009, reference 01, which denied benefits effective July 11, 2009 on a finding that she was no longer eligible for training extension benefits (TEB) after July 10, 2009. After due notice was issued, a hearing was held by telephone on August 21, 2009. Ms. Lewis participated personally.

ISSUE:

At issue in this matter is whether Ms. Lewis is eligible to receive TEB after July 10, 2009.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Lewis has not worked since filing her claim for job insurance benefits effective July 15, 2007. She has been in training since August of 2007, when she began taking classes at the Des Moines Area Community College (DMACC). Her training is scheduled to end in December of 2010.

Ms. Lewis exhausted benefits on her original claim with the week ending November 3, 2007. She filed a claim for extended benefits effective July 6, 2008 and received benefits through the week ending August 20, 2008. She was paid additional benefits on the extended claim from November 23 through December 27, 2008. A second claim for extended benefits was filed effective March 22, 2009. Ms. Lewis received benefits on the claim from March 22 through May 16, 2009.

Ms. Lewis submitted an application for TEB in July of 2009. In the decision under review, she was determined to be eligible for such benefits effective July 5, 2009. However, it was determined that the benefits were no longer available after July 11, 2009. Ms. Lewis was not on Division Approved Training (DAT) or in training under the Workforce Investment Act of 1998 at any time prior to July of 2009.

REASONING AND CONCLUSIONS OF LAW:

A threshold requirement for receiving TEB is that an individual be in specified training at the time regular unemployment benefits are exhausted. The fact that an individual was taking classes does not, in and of itself, establish eligibility for TEB.

Iowa Code Section 96.3-5-a-b provides:

a. Duration of benefits. The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off indicator" is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

b. Training Extension Benefits.

(1) An individual who has been separated from a declining occupation or who has been involuntarily separated from employment as a result of a permanent reduction of operations at the last place of employment and who is in training with the approval of the director or in a job training program pursuant to the Workforce Investment Act of 1998, Pub. L. No. 105=220, at the time regular benefits are exhausted, may be eligible for training extension benefits.

(2) A declining occupation is one in which there is a lack of sufficient current demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity, and the lack of employment opportunities is expected to continue for an extended period of time, or the individual's occupation is one for which there is a seasonal variation in demand in the labor market and the individual has no other skill for which there is current demand.

(3) The training extension benefit amount shall be twenty-six times the individual's weekly benefit amount and the weekly benefit amount shall be equal to the individual's weekly benefit amount for the claim in which benefits were exhausted while in training.

(4) An individual who is receiving training extension benefits shall not be denied benefits due to application of section 96.4, subsection 3, or section 96.5, subsection 3. However, an employer's account shall not be charged with benefits so paid. Relief of charges

under this paragraph "b" applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(5) In order for the individual to be eligible for training extension benefits, all of the following criteria must be met:

(a) The training must be for a high-demand occupation or high-technology occupation, including the fields of life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, and environmental technology. "High-demand occupation" means an occupation in a labor market area in which the department determines work opportunities are available and there is a lack of qualified applicants.

(b) The individual must file any unemployment insurance claim to which the individual becomes entitled under state or federal law, and must draw any unemployment insurance benefits on that claim until the claim has expired or has been exhausted, in order to maintain the individual's eligibility under this paragraph "b". Training extension benefits end upon completion of the training even though a portion of the training extension benefit amount may remain.

(c) The individual must be enrolled and making satisfactory progress to complete the training.

Ms. Lewis exhausted regular unemployment benefits with the week ending November 3, 2007. Although she was in school at the time, she was not on DAT or in training under the Workforce Investment Act of 1998. Nor was she in such training at the time she exhausted benefits on claims for extended benefits. Because her training does not meet the criteria for TEB, she is not entitled to such benefits.

DECISION:

The representative's decision dated July 27, 2009, reference 01, is hereby modified. Ms. Lewis is not entitled to TEB, as she does not satisfy the requirements of the law.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw