

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER M VANLANINGHAM
Claimant

APPEAL NO: 07A-UI-05743-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/01/07 R: 03
Claimant: Appellant (4)**

Section 96.4-7 – Requiring Findings – Reemployment Services
871 IAC 24.2(1)e –Reporting As Directed
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Jennifer M. VanLaningham (claimant) appealed a representative's May 29, 2007 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits beginning May 20, 2007 because she had failed to participate in reemployment services. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 26, 2007. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant fail to participate in reemployment services without justifiable cause? Was the claimant eligible for unemployment insurance benefits by being able and available for work?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits effective April 1, 2007. She was scheduled to report to the local Agency office for reemployment services on Tuesday, May 22. She called the local office that morning and left a message that she could not attend because her son was sick. She was available for the rest of the week but she did not hear back from the workforce advisor until Friday, May 25. At that time a new appointment for reemployment services was scheduled for Tuesday, May 29. However, on May 29 the claimant called and indicated she needed to reschedule as she needed to go out of town due to a family funeral; she did not return home until Friday, June 1. She did participate in reemployment services on June 5; another representative's decision was issued on June 6, 2007 (reference 03) allowing benefits as of the week beginning June 3, 2007.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant established justifiable cause for failing to participate in reemployment services.

Iowa Code § 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.

871 IAC 24.6 provides:

Profiling for reemployment services.

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

(2) 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.

(3) Reemployment services 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.

- 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.
- b. Reserved.

This rule is intended to implement Iowa Code § 96.4(7).

The claimant did not participate in reemployment services on May 22 and on May 29 and did fail to report as directed by the Agency. However, for both instances she had justifiable cause for failure to participate. Accordingly, the claimant would be eligible to receive unemployment insurance benefits beginning May 20, 2007 if she was otherwise eligible.

The final issue in this case is whether the claimant was eligible for unemployment insurance benefits by being able and available for employment.

Iowa Code § 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. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

871 IAC 24.23(25) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

While the claimant had a good personal reason for being out of town the majority of the week ending June 2, 2007, she was not able and available for work that week, and is therefore not eligible for benefits for that week.

DECISION:

The representative's May 29, 2007 decision (reference 02) is modified in favor of the claimant. The claimant did establish justifiable cause for failing to participate in reemployment services for the two-week period from May 20 through June 2, 2007. The claimant would be qualified to receive unemployment insurance benefits for that period if she was otherwise eligible. However, she was not able and available for work for the week ending June 2, 2007, and so is not eligible for benefits for that week. Benefits are allowed for the week ending May 26, 2007.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs