

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT FOX
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 22A-UCX-00003-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/13/22
Claimant: Appellant (2)**

Iowa Code § 96.4(6)a – Department Approved Training
Iowa Admin. Code r. 871-24.39 – Department Approved Training

STATEMENT OF THE CASE:

Claimant filed an appeal from the March 25, 2022 (reference 02) unemployment insurance decision that denied Department Approved Training (DAT). Claimant was properly notified of the hearing. A telephone hearing was held on April 22, 2022. Claimant participated. Claimant's Exhibit A was admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant is eligible for department approved training.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed as a Blackhawk Helicopter Pilot with the United States Army until his enlistment ended January 30, 2022. Claimant worked full-time but his schedule varied. Claimant flew the helicopter for military missions. On days claimant was not required to fly, he worked from 9:00 a.m. until 5:00 p.m. On days claimant was required to fly, his schedule depended upon the mission.

Claimant filed an initial claim for benefits effective February 13, 2022 and applied for DAT on February 20, 2022. Claimant is enrolled full-time in a Rotary Transition Program at Mercer County Community College in New Jersey. Claimant completed the online portion of the program between October 2021 and December 2021. Claimant earned two grades during the online program – both were A pluses.

In December 2021, claimant began the in-person portion of the program during which he logs flight time in various aircraft. Claimant flies seven days per week for eight hours per day, weather permitting. Claimant has flown as early as 7:00 a.m. and as late as 4:00 a.m.

Claimant will complete the program on May 14, 2022. Claimant receives pass/fail progress checks during the in-person program; he has passed them all to date. Upon completion,

claimant will take exams for his private pilot license, commercial single-engine license and commercial multi-engine license.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

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

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. Vocational 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 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 the 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 in person as a full-time student.

While attending the approved training course, the claimant need not be available for work or actively seeking work, except if the hours of the training are outside the regular hours worked in the base period employment. 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.

This rule is intended to implement Iowa Code section 96.4(6).

Claimant meets the eligibility requirements outlined above. Therefore, DAT is approved.

DECISION:

The March 25, 2022 (reference 02) unemployment insurance decision is reversed. Claimant is eligible for DAT.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

April 29, 2022
Decision Dated and Mailed

acw/acw