

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEANNE A SEAGER
Claimant

APPEAL NO. 09A-UI-01390-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/02/08 R: 04
Claimant: Appellant (1/R)**

Section 96.4-3 – Able and Available
Section 96.4-6-a – Department Approved Training

STATEMENT OF THE CASE:

Jeanne A. Seager (claimant) appealed a representative's January 21, 2009 decision (reference 04) that concluded she was now subject to the availability for work and work search requirements due to discontinuation of her Department-Approved Training (DAT). A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on February 18, 2009. 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.

ISSUE:

Should the claimant's DAT approval have been withdrawn?

FINDINGS OF FACT:

On December 30, 2008, the claimant completed and submitted an application for Department-Approved Training (DAT). The application indicated that she planned on attending Iowa Wesleyan College beginning January 5 continuing through May 2, 2009; her planned program of study was "business administration – management." Based upon this application, on January 2, 2009, the Agency issued a decision dated January 2, 2009 (reference 03), approving this training through the May 2 date specified in the application.

The claimant attended a few days of classes at Iowa Wesleyan, and concluded the program was not right for her. She consulted with a Workforce advisor at her local agency office and determined to switch to another program at another institution. However, she did not complete a new application until February 19, 2009, the date of the hearing in this matter. She filed her new application on February in the Agency's Burlington, Iowa office. In that application she specified the training facility as being JCC (Jackson Community College) in West Burlington, Iowa, and the program of study as "office administration certification – CB12." The dates of training were stated as January 14 through August 27, 2009. As of the date of this decision, the Agency had not yet acted on the claimant's February 19 application for approval of the new training program.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the Agency's January 2, 2009 approval of the claimant's training application was properly withdrawn through the January 21, 2009 (reference 04) decision.

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. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. § 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.

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. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

871 IAC 24.39 provides:

Department-approved training or retraining program. The intent of the department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written 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 occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. 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, 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 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).

The claimant is not engaged in the training program that was approved by the Agency in the January 2, 2009 (reference 03) decision. Therefore, withdrawal of that approval was appropriate. However, the claimant has now submitted a separate application for approval of a different training program that the Agency has not as yet ruled on. It is not appropriate for an initial review of that application and program to occur at the appeal stage. The matter is remanded to the Claims Section for review and action on the claimant's new DAT application.

DECISION:

The representative's January 21, 2009 decision (reference 04) is affirmed. The withdrawal of approval for the claimant's initial Department-Approved Training was correct, as she did not continue with that training program. Until or unless a new training program is approved, the claimant is subject to the requirements of being able and available for work and conducting a search for work. The matter is remanded to the Claims Section for review and action of the claimant's February 19, 2009 new application for approved training.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw