

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JODI L NELSON
42 PERRY LN
SIOUX CITY IA 51104

IOWA WORKFORCE DEVELOPMENT
DEPARTMENT

Appeal Number: 04A-UI-00073-CT
OC: 10/05/03 R: 01
Claimant: Appellant (1)

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 Workforce Development. 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4(6)a – Division Approved Training

STATEMENT OF THE CASE:

Jodi Nelson filed an appeal from a representative's decision dated December 23, 2003, reference 01, which denied her request for Division Approved Training (DAT). After due notice was issued, a hearing was held by telephone on January 29, 2004. Ms. Nelson participated personally.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: In June of 2003, Ms. Nelson began taking classes at Western Iowa Technical Community College (WIT). She was authorized for DAT for the period

July 27 through December 20, 2003. During the summer session, she took four classes and during the fall session she took two classes. Her classes during this time included anatomy, physiology, sociology, ethics and English composition. It is Ms. Nelson's intent to enter a radiology program through St. Lukes Hospital and obtain a bachelor's degree. She will need to transfer to Briarcliff College in the fall of 2004 to complete her degree requirements.

Ms. Nelson's current application for DAT was filed on December 18, 2003. She is still attending WIT and is currently enrolled for three classes. She is taking medical terminology, art appreciation and music appreciation, for a total of nine credit hours.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Nelson is eligible for DAT.

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).

As stated in the above-cited rule, DAT is available for training that will upgrade necessary skills so that an individual may return to the labor force. It is true that Ms. Nelson was authorized for DAT when she initially began attending classes. Her prior classes were, for the most part,

related to her degree goal of radiology. Classes such as anatomy, psychology, and physiology are reasonably related to the field of radiology, a medical profession. The administrative law judge does not believe that the prior approval mandates continued approval for DAT.

Ms. Nelson is currently taking only one course, medical terminology, that is related to her desired profession. Her music and art appreciation classes are not related to her degree and will not provide skills that will enable her to return to the labor market. The administrative law judge concludes that Ms. Nelson's one course in medical terminology does not represent a substantial and practical curriculum such as would justify the use of unemployment benefits. Accordingly, the denial of DAT shall be affirmed.

The administrative law judge appreciates that Ms. Nelson has substantial family responsibilities that may prevent her from engaging in full-time employment. However, these circumstances are not factors in determining eligibility for DAT.

DECISION:

The representative's decision dated December 23, 2003, reference 01, is hereby affirmed. Ms. Nelson's application for DAT is denied.

cfc/s