

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 13IWDUI560

OC: 09/29/13

Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**ASHLEY DELAY
1129 FARNAM STREET
DAVENPORT, IA 52803**

**IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & BRYSON ANSON**

TERESA K HILLARY, IWD
JONI BENSON, IWD
DONNI ANDERSON, IWD

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 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 the department. 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)

January 6, 2014

(Decision Dated & Mailed)

871 IAC 24.2(1)e – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Ashley Delay appealed a decision issued by Iowa Workforce Development (“IWD”), dated November 12, 2013, reference 02, finding she was ineligible to receive unemployment insurance benefits as of November 3, 2013 because she failed to attend a reemployment and eligibility assessment appointment on November 6, 2013 at 9:30 am. Delay submitted an appeal from this decision via fax. This appeal letter was dated and stamped as received in the IWD Appeals Section on November 13, 2013. Delay listed her address as 1129 Farnam St, Davenport, IA 52803.

On November 26, 2013, IWD transmitted the administrative file to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the file, it mailed a copy of the administrative file to Delay. On December 19, 2013, the

Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for January 6, 2014 at 8:30 am.

On January 6, 2014, at 8:30 am, a contested case telephone hearing was initiated by Administrative Law Judge Emily Gould Chafa. Delay did not appear. The IWD representatives did not appear. ALJ Chafa waited for more than ten minutes for one or both of the parties to join the telephone hearing via the conference calling system. Neither party appeared. This decision is based on Exhibits 1 through 6, which are considered to be the record in this matter, along with the Notice of Telephone Hearing.

ISSUES

Whether the department correctly determined the claimant is ineligible to receive unemployment insurance benefits.

Whether the department correctly determined that the claimant did not establish justifiable cause for failing to participate in reemployment services.

FINDINGS OF FACT

IWD selected Delay to participate in its reemployment services program. On October 24, 2013, IWD sent Delay a notice to report to attend a reemployment and eligibility assessment appointment on November 6, 2013 at 9:30 am at the IowaWorks office in Davenport, Iowa. (Exhibit 5) This notice to report was mailed to Ashley Delay at the address on file, 1129 Farnam St, Davenport, IA 52803. (Exhibit 5, Exhibit 2) She did not attend the appointment.

IWD issued a decision on November 12, 2013, reference 02, finding Ashley Delay was ineligible to receive unemployment insurance benefits as of November 3, 2013 because she failed to attend the reemployment and eligibility assessment appointment on November 6, 2013. (Exhibit 6) This Notice of Decision was mailed to the same address, 1129 Farnam St, Davenport, IA 52803. Delay submitted an appeal letter via fax, which was dated and was received in the IWD Appeals Section on November 13, less than ten days after the decision date. (Exhibit 3) Ashley Delay listed her address as 1129 Farnam St, Davenport, IA 52803 on her appeal form. She stated, as her grounds for this appeal, that she was appealing the decision because she never got a paper or a phone call. (Exhibit 3) Ms. Delay did not provide any additional specific information in her appeal letter. She did not appear for her appeal hearing to further describe or explain her statement in her appeal form. (Exhibit 3)

While waiting for the parties to join this hearing, I reviewed the file and noticed that the Notice of Telephone Hearing was not returned as undeliverable. I presume that Delay received the notice of telephone hearing, which was sent to the proper address. I presume that the IWD representatives received the Notice of Telephone Hearing as well.

The appeal file did not include any updated information regarding attendance at another class or appointment, or whether or not Ashley Delay's benefits were reinstated. The IWD representative did not appear for the hearing to provide any updated information relating to this matter.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.¹ Reemployment services may include: (1) an assessment of the claimant's aptitude, work history, and interest; (2) employment counseling; (3) job search and placement assistance; (4) labor market information; (5) job search workshops or job clubs and referrals to employers; (6) resume preparation; and (7) other similar services.²

In order to maintain continuing eligibility for benefits, an individual is required to report to IWD as directed.³ Specifically, a claimant is required to participate in reemployment services when referred by IWD, unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed the training or services.⁴ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁵ "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."⁶

Delay provided very little information in her appeal form to show her reasons for missing the scheduled appointment on November 6, 2013. (Exhibit 3) Within ten days after she received the decision stating that she missed the appointment, Delay took action to appeal that decision. However, Ashley Delay did not appear for the contested case appeal hearing to establish justifiable cause for missing the November 6, 2013 assessment appointment. She did not follow through to reschedule the assessment appointment. IWD's decision is affirmed.

DECISION

IWD's decision, dated November 12, 2013, reference 02, is AFFIRMED.
egc

¹ 871 Iowa Administrative Code (IAC) 24.6(1).

² 871 IAC 24.6(3).

³ 871 IAC 24.2(1)e.

⁴ 871 IAC 24.6(6).

⁵ 871 IAC 24.6(6).

⁶ 871 IAC 24.6(6)a.