

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

Appeal Number: 12IWDUI359
OC: 05/13/12
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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.**

ESMERALDA PADILLA
525 E. 2ND STREET, APT A
CRETE, NE 68333

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

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & NANCY KROUGH

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.

JOE WALSH, IWD
CARLA DENNIS, IWD

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)

October 12, 2012

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Esmeralda Padilla appealed a decision issued by Iowa Workforce Development (“IWD”), reference 03, dated June 16, 2012, finding Padilla was mailed a notice to report for reemployment services orientation on June 12, 2012 and since she did not report benefits were denied as of June 10, 2012.

On August 27, 2012, 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 Padilla. On August 29, 2012, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for October 11, 2012. Prior to the hearing, Nancy Krough with IWD submitted additional documents and provided a copy to Padilla.

On October 11, 2012, a contested case hearing was held before Administrative Law Judge Heather L. Palmer. Padilla did not appear as directed by the Notice of Telephone Hearing. Krough appeared and testified on behalf of IWD. Exhibits 1 through 8 were admitted into the record.

ISSUE

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

FINDINGS OF FACT

On May 31, 2012, IWD sent Padilla a notice to report to attend reemployment services orientation on June 12, 2012. Krough testified Padilla did not report or contact IWD to try to reschedule the appointment. IWD issued the decision, reference 03, on June 14, 2012, finding Padilla was mailed a notice to report for reemployment services orientation on June 12, 2012 and since she did not report benefits were denied as of June 10, 2012.

In her appeal letter Padilla reported she did not receive the notice of the appointment after she moved to Nebraska. Krough testified Padilla contacted her on August 2, 2012 and informed her she moved the end of May. IWD did not receive an updated address from Padilla until July 19, 2012. Padilla did not appear at hearing to testify under oath.

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

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.³ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁴ "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."⁵

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6) a.

Padilla did not attend reemployment services on June 12, 2012. Padilla did not attend the hearing to testify, under oath, while she missed the appointment. Padilla has not established justifiable cause for failing to attend the appointment. IWD's decision should be affirmed.

DECISION

IWD correctly determined Padilla did not establish justifiable cause for failing to participate in reemployment services, and its decision dated June 14, 2012, reference 03, is AFFIRMED.

hlp