

Message: RE: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:26 PM
 Item ID: 40861702
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Participation Tip Sheet attached.**

From	Mormann, Marlon [IWD]	Date Friday, October 11, 2013 2:33 PM
To	Lewis, Devon [IWD]; Scheetz, Beth [IWD]; Hendricksmeier, Bonny [IWD]; Wise, Debra [IWD]; Timberland, James [IWD]; Elder, Julie [IWD]; Donner, Lynette [IWD]; Stephenson, Randall [IWD]; Wise, Steve [IWD]; Ackerman, Susan [IWD]; Nice, Terence [IWD]; Hillary, Teresa [IWD]; Seeck, Vicki [IWD]	
Cc	Wahlert, Teresa [IWD]	

This was a team effort. I made a dozen changes, which were suggested by the ALJs. Credit goes to the team. Thanks.

**Marlon Mormann, Administrative Law Judge
515-265-3512**

From: Lewis, Devon [IWD]
Sent: Friday, October 11, 2013 2:08 PM
To: Scheetz, Beth [IWD]; Hendricksmeier, Bonny [IWD]; Wise, Debra [IWD]; Lewis, Devon [IWD]; Timberland, James [IWD]; Elder, Julie [IWD]; Donner, Lynette [IWD]; Mormann, Marlon [IWD]; Stephenson, Randall [IWD]; Wise, Steve [IWD]; Ackerman, Susan [IWD]; Nice, Terence [IWD]; Hillary, Teresa [IWD]; Seeck, Vicki [IWD]
Subject: FW: Participation Tip Sheet attached.

Marlon has put together a very clear tip sheet explaining the participation issue. If you get questions from the parties, you can refer them to this on the Agency web site or use it to explain it to the parties.

Thank you, Marlon!

From: Mormann, Marlon [IWD]

Sent: Friday, October 11, 2013 1:51 PM

To: Koonce, Kerry [IWD]; Wahlert, Teresa [IWD]

Cc: Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Wise, Steve [IWD]

Subject: RE: Participation Tip Sheet attached.

Here you go.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Koonce, Kerry [IWD]

Sent: Friday, October 11, 2013 12:43 PM

To: Wahlert, Teresa [IWD]; Mormann, Marlon [IWD]

Cc: Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Wise, Steve [IWD]

Subject: RE: Participation Tip Sheet attached.

I need the tip sheet.

Kerry Koonce, CPM

Division Administrator, Communications & Labor Market Information

Iowa Workforce Development

1000 East Grand Avenue

Des Moines, IA 50319

T: 515-281-9646

F: 515-281-4698

C: 515-681-2230

From: Wahlert, Teresa [IWD]

Sent: Friday, October 11, 2013 12:18 PM

To: Mormann, Marlon [IWD]; Koonce, Kerry [IWD]

Cc: Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Wise, Steve [IWD]

Subject: Re: Participation Tip Sheet attached.

Kerry - I have also cleared this tip sheet with Wilkinson - it is ready to go- let's get this up on our web pages in the appropriate spots

- Teresa Wahlert

On Oct 10, 2013, at 5:43 AM, "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov> wrote:

Yes, circulated many times and did a dozen or more changes. So this is a solid final.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Wahlert, Teresa [IWD]
Sent: Wednesday, October 09, 2013 8:46 PM
To: Mormann, Marlon [IWD]
Subject: Re: Participation Tip Sheet attached.

Did you circulate among your group?

- Teresa Wahlert

On Oct 9, 2013, at 2:37 PM, "Mormann, Marlon [IWD]"
<Marlon.Mormann@iwd.iowa.gov> wrote:

Here is the final draft for your approval. What next?

Marlon Mormann,
Administrative Law Judge
515-265-3512

<Employer participaiton at fact finding tip.docx>

Message: FW: here's the changes I gave to MM

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:58 PM
Item ID: 40862447
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: here's the changes I gave to MM**

From Hillary, Teresa [IWD] **Date** Monday, March 24, 2014 2:19 PM
To Koonce, Kerry [IWD]
Cc

 [Employer participaiton at fact finding tip.doc](#) (30 Kb HTML)

From: Lewis, Devon [IWD]
Sent: Friday, October 11, 2013 2:10 PM
To: Hillary, Teresa [IWD]
Subject: here's the changes I gave to MM

Devon

EMPLOYER PARTICIPATION AT UNEMPLOYMENT FACT-FINDING INTERVIEWS

Effective July 1, 2013, subsection b of Iowa Code 96.3(7) was enacted and provides that an employer may face charges to its account for failure to participate at a fact-finding interview, even if the employer prevails on appeal in the unemployment hearing.

Personal participation by an employer representative with first-hand knowledge of the reasons for the separation will almost always suffice to prevent charges to the employer's account in that circumstance. *An employer representative who has first-hand knowledge about the issue and provides information to the fact-finder is the most effective form of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that, if not refuted, would be sufficient to allow the employer to win.

Mandatory requirements when participating through documents:

- Employer must provide the name and telephone number of an employee representative with first-hand information who is available to be contacted at the time of the fact finding interview.
- Employer should provide detailed written, signed and dated statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge, the statement must include circumstances of all absences relating to the discharge with details about why the absences were considered unexcused. (See tip sheet about absenteeism for further detail.)

What is not considered adequate participation at a fact-finding interview?

- Written or oral statements of general conclusions without supporting detailed factual information are not considered participation.

- Information submitted after the fact-finding is not participation.
-

Message: FW: Participation Tip Sheet attached.**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:58 PM
 Item ID: 40862448
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Participation Tip Sheet attached.**

From Hillary, Teresa [IWD] **Date** Monday, March 24, 2014 2:19 PM
To Koonce, Kerry [IWD]
Cc

GOLD

From: Mormann, Marlon [IWD]
Sent: Friday, October 11, 2013 2:32 PM
To: Lewis, Devon [IWD]; Scheetz, Beth [IWD]; Hendricksmeier, Bonny [IWD]; Wise, Debra [IWD];
 Timberland, James [IWD]; Elder, Julie [IWD]; Donner, Lynette [IWD]; Stephenson, Randall [IWD];
 Wise, Steve [IWD]; Ackerman, Susan [IWD]; Nice, Terence [IWD]; Hillary, Teresa [IWD]; Seeck, Vicki
 [IWD]
Cc: Wahlert, Teresa [IWD]
Subject: RE: Participation Tip Sheet attached.

This was a team effort. I made a dozen changes, which were suggested by the ALJs. Credit goes to the team. Thanks.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Lewis, Devon [IWD]
Sent: Friday, October 11, 2013 2:08 PM
To: Scheetz, Beth [IWD]; Hendricksmeier, Bonny [IWD]; Wise, Debra [IWD]; Lewis, Devon [IWD];
 Timberland, James [IWD]; Elder, Julie [IWD]; Donner, Lynette [IWD]; Mormann, Marlon [IWD];
 Stephenson, Randall [IWD]; Wise, Steve [IWD]; Ackerman, Susan [IWD]; Nice, Terence [IWD]; Hillary,
 Teresa [IWD]; Seeck, Vicki [IWD]
Subject: FW: Participation Tip Sheet attached.

Marlon has put together a very clear tip sheet explaining the participation issue. If you get questions from the parties, you can refer them to this on the Agency web site or use it to explain it to the parties.

Thank you, Marlon!

From: Mormann, Marlon [IWD]
Sent: Friday, October 11, 2013 1:51 PM
To: Koonce, Kerry [IWD]; Wahlert, Teresa [IWD]
Cc: Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Wise, Steve [IWD]
Subject: RE: Participation Tip Sheet attached.

Here you go.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Koonce, Kerry [IWD]
Sent: Friday, October 11, 2013 12:43 PM
To: Wahlert, Teresa [IWD]; Mormann, Marlon [IWD]
Cc: Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Wise, Steve [IWD]
Subject: RE: Participation Tip Sheet attached.

I need the tip sheet.

Kerry Koonce, CPM
Division Administrator, Communications & Labor Market Information
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, IA 50319
T: 515-281-9646
F: 515-281-4698
C: 515-681-2230

From: Wahlert, Teresa [IWD]
Sent: Friday, October 11, 2013 12:18 PM
To: Mormann, Marlon [IWD]; Koonce, Kerry [IWD]
Cc: Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Wise, Steve [IWD]
Subject: Re: Participation Tip Sheet attached.

Kerry - I have also cleared this tip sheet with Wilkinson - it is ready to go- let's get this up on our web pages in the appropriate spots

- Teresa Wahlert

On Oct 10, 2013, at 5:43 AM, "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov> wrote:

Yes, circulated many times and did a dozen or

more changes. So this is a solid final.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Wahlert, Teresa [IWD]
Sent: Wednesday, October 09, 2013 8:46 PM
To: Mormann, Marlon [IWD]
Subject: Re: Participation Tip Sheet attached.

Did you circulate among your group?

- Teresa Wahlert

On Oct 9, 2013, at 2:37 PM, "Mormann, Marlon [IWD]"
<Marlon.Mormann@iwd.iowa.gov> wrote:

Here is the final draft for
your approval. What next?

Marlon Mormann,
Administrative Law Judge
515-265-3512

<Employer participaiton at fact finding
tip.docx>

Message: FW: Meeting with Director

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:58 PM
Item ID: 40862466
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Meeting with Director**

From Hillary, Teresa [IWD] **Date** Monday, March 24, 2014 3:59 PM
To Wahlert, Teresa [IWD]
Cc

fyi

From: Lewis, Devon [IWD]
Sent: Monday, March 24, 2014 3:39 PM
To: Koonce, Kerry [IWD]
Cc: Hillary, Teresa [IWD]
Subject: FW: Meeting with Director

Here VS refers to TW telling her the attendance and drug testing tip sheets are for both Es and Cs. And realizes they are fact-based. And reference to general guidance for the public.

From: Seeck, Vicki [IWD]
Sent: Tuesday, August 06, 2013 10:01 AM
To: Lewis, Devon [IWD]
Subject: RE: Meeting with Director

She asked me to develop what she called a "tip sheet" that can be posted on the web page for employers and claimants on two topics: attendance and drug testing. She asked that this be done in the next six months but I am hoping to have a draft to her within two weeks on both topics. Because I have to do these tip sheets, I thought I could also do the preparation work for the training for fact finders on these two topics. She emphasized that she realizes each case will be decided on the facts of that case but she does believe that we can issue some general guidance that is accessible for the public. She said these two topics come up often when she talks to employer groups.

Right now I am in a rough patch with having IPs in Cedar Rapids and then six days of IPs in Davenport.

So far none of the cases have been easy. I mentioned to her that time expectations can be affected by IPs and travel to venues. She said that she completely understands and she realizes that there may be weeks when those standards cannot be met. She amended my PDQ to specifically state this. I don't know if you know this or not, but I go to CR once a month (this month it is two days) to help with the backlog in this venue. She was very interested in why parties want IP hearings and what cases are the most time consuming. I told her that interpreted hearings are often longer than usual and she said that she wants to have a fuller discussion on interpreted cases. I believe she mentioned that issue as something for an upcoming staff meeting.

Let me know if you need anything else.

Vicki

From: Lewis, Devon [IWD]
Sent: Tuesday, August 06, 2013 9:13 AM
To: Seeck, Vicki [IWD]
Subject: RE: Meeting with Director

Thanks for the info, Vicki. What are the other two projects if I may ask? Don't be afraid to say "when" if you've got more on your plate than you can handle. She also told me that some things will just not get done as fast as we might like. Decisions are first priority. Thank you for your invaluable work, insight and input. They are greatly appreciated. I will note your issue training preferences.

Devon

From: Seeck, Vicki [IWD]
Sent: Tuesday, August 06, 2013 8:58 AM
To: Lewis, Devon [IWD]
Subject: Meeting with Director

Welcome back,

I had my performance evaluation with the director last Thursday. One of the topics we discussed was the desk manual. I told her it was a work in progress but that we had the format and the table of contents. I told her that you had developed the format and that we were both contributing chapters as we had time. She asked for a copy of a sample page and the table of contents. I have emailed both of them to her per her request. I also told her that I thought it was more than a two person project. She has given me two additional projects that she wants done and I am working on those.

I also told her that James and I were going to do the training on drug cases. I haven't talked to James yet, but my idea is that he will present 730.5 and I will do the DOT cases. I have had several of those cases recently. We will try to use Lynette's excellent worksheet in the presentation. I told the director I did not know your training schedule. Another topic I am willing to present is on attendance cases, particularly the relationship between an employer's attendance policy and misconduct and current act of misconduct.

Let me know if you have any questions.

Vicki

Message: RE: New Administrative Rule on Work Refusal**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:25 PM
 Item ID: 40860735
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

RE: New Administrative Rule on Work Refusal

From Scheetz, Beth [IWD] **Date** Wednesday, September 05, 2012 11:01 AM
To Seeck, Vicki [IWD]
Cc

Sounds good.

I would exclude e-mail as you don't know who accepted it.

Beth

From: Seeck, Vicki [IWD]

Sent: Wednesday, September 05, 2012 10:39 AM

To: Ackerman, Susan [IWD]; Elder, Julie [IWD]; Hillary, Teresa [IWD]; Hendricksmeier, Bonny [IWD]; Lewis, Devon [IWD]; Donner, Lynette [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]

Subject: New Administrative Rule on Work Refusal

Good Morning,

Joe has asked me to draft a new administrative rule on work refusal. The director has asked that the rule be specific on what constitute a definite offer and a definite refusal. I have a due date of next Thursday to complete this project.

Considering the many ways employers and employees now communicate, one thing I wanted to do was give examples of ways of communicating. For example, I would say that a definite offer could be made in a registered letter; certified letter return receipt requested; personal meeting; and phone call where both parties actually speak to each other. Excluded would be text message and voicemail. What about email? Any thoughts on that?

Concerning a definite refusal, what do you think of a rule that says that an employee has three days to consider an offer and if no response is made to an offer within three days, the offer is deemed refused. We use three consecutive work days on temporary assignments, voluntary quits...

I hope to have a working draft by Monday and would be willing to circulate it to whoever would like to review it prior to my turning it in to Joe on Thursday. Any comments questions contributions etc. will be gratefully accepted.

Vicki

Message: templates and shells

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:38 PM
Item ID: 40861891
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **templates and shells**

From Hillary, Teresa [IWD] **Date** Wednesday, April 02, 2014 3:52 PM
To Koonce, Kerry [IWD]
Cc

 [14-caption.doc.h2.doc](#) (53 Kb HTML)  [DM - DQ.doc](#) (41 Kb HTML)  [VQ - DQ.doc](#)
(46 Kb HTML)  [bethsblurblanguage](#) (84 Kb HTML)  [bethscaseslanguage](#) (76 Kb HTML)
 [Second Claim Year 250.doc](#) (56 Kb HTML)  [Timely Appeal - Deny.doc](#) (49 Kb HTML)

fyi

Teresa K. Hillary

Iowa Workforce Development
1000 E Grand Avenue
Des Moines IA 50319

Phone: 515.725.2683
FAX: 515.242.5144

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

**APPEAL NO. 14A-UI--H2T
ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

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:

Employment Appeal Board

4th Floor – Lucas Building

Des Moines, Iowa 50319

or

Fax Number: (515)281-7191

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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

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.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

Claimant	68-0157 (9-06) - 3091078 - EI
Employer	APPEAL NO. 14A-UI--H2T ADMINISTRATIVE LAW JUDGE DECISION
	OC: // Claimant: ()

STATEMENT OF THE CASE:

The filed an appeal from the , (reference 0) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on . Claimant participated. Employer did participate through .

ISSUE:

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed -time as a beginning on through when he was

REASONING AND CONCLUSIONS OF LAW:

DECISION:

Teresa K. Hillary

Administrative Law Judge

Decision Dated and Mailed

tkh/

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Ref. 14, 15

The Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. EAB*, 531 N.W.2d 645 (Iowa App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

Claimant's repeated failure to accurately perform his job duties after having been warned is evidence of carelessness to such a degree of recurrence as to rise to the level of disqualifying job related misconduct. Benefits are denied.

Claimant did not rebut employer's reason for the separation and his failure to maintain his license as a known condition of his employment was misconduct sufficient to warrant a denial of benefits.

DECISION:

The (reference 0) decision is . The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as has worked in and been paid wages for insured work equal to ten times weekly benefit amount, provided is otherwise eligible. Inasmuch as no benefits were claimed or paid, no overpayment applies.

Dévon M. Lewis

Administrative Law Judge

Decision Dated and Mailed

dml/

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Ref. 1,

163 lack of transportation

164 move

165 did not secure other employment

167 inability to work w/ others

169 wages

170 jail

The claimant's incarceration on multiple scheduled workdays was not a good-cause reason attributable to the employer for leaving. Employer's attribution of the absences as a voluntary leaving of employment was reasonable as it is not expected to hold employment for incarcerated employees. Benefits are denied. An employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. Whether voluntary or involuntary the claimant's incarceration on multiple scheduled workdays was a disqualifying separation, especially since the claimant's girlfriend misrepresented the reason for his absence. Employers are not expected to hold employment for incarcerated employees regardless of prior warning. Benefits are denied.

171 child care

172 disliked shift

173 self-employment

174 compelling personal reasons exceeded 10 days

175 work environment

176 personality conflict w/ supervisor

177 serious family needs

178 retire

179 vacation

180 school

181 rather than perform assigned work

182 reprimand

184 commuting distance

186 thought work was not to E std

189 E accepted resignation

166 3 ncns 871 IAC 24.25(4) An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

While claimant reported for additional work assignment the next business day and meets the requirements of Iowa Code § 96.5(1)j, his leaving the assignment the day before was disqualifying and he had not yet earned ten times his weekly benefit amount (WBA) for the purposes of requalification.

While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving

the employment. Benefits must be denied.

DECISION:

The (reference 0) decision is . The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as has worked in and been paid wages for insured work equal to ten times weekly benefit amount, provided is otherwise eligible. Inasmuch as no benefits were claimed or paid, no overpayment applies.

Dévon M. Lewis

Administrative Law Judge

Decision Dated and Mailed

dml/

- [\[Heading 1\]](#)
 - [\[Hafter\]](#)
 - [\[Devid\]](#)
- [\[Cfact\]](#)
- [\[Read\]](#)
- [\[Requali\]](#)
- [\[Arequali\]](#)

Statement of the Case:

astat

(claimant) appealed a representative's decision (reference 0) that concluded was not eligible to receive unemployment insurance benefits because had voluntarily quit employment with (employer).

bstat

(claimant) appealed a representative's decision (reference 0) that concluded refused to accept suitable work with (employer).

cstat

(claimant) appealed a representative's decision (reference 0) that concluded was not eligible to receive unemployment insurance benefits because was discharged from work with (employer) for .

dstat

(employer) appealed a representative's decision (reference 0) that concluded (claimant) was discharged and there was no evidence of willful or deliberate misconduct.

estat

(claimant) appealed a representative's decision (reference 0) that concluded had made fewer than the required two in-person job contacts and that a warning should be issued.

After:

aafter

After hearing notices were mailed to the parties' last-known addresses of record,

a telephone hearing was held on . The claimant did not provide a telephone number where could be reached and, therefore, did not participate. The employer participated by , .

bafter

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on . The claimant participated personally. The employer participated by , .

cafter

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on . The claimant participated personally. The employer did not provide a telephone number where it could be reached and, therefore, did not participate.

dafter

After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was scheduled to be held on . The claimant did not provide a telephone number where could be reached and, therefore, did not participate.

eafter

After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on . The claimant participated personally.

fafter

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled to be held on . Neither the claimant nor the employer provided a telephone number where they could be reached and, therefore, did not participate.

gafter

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled to be held on . The claimant failed to provide a telephone number where could be reached and, therefore, did not participate in the hearing. The employer responded to the hearing notice and indicated that would participate as the employer's representative. When the administrative law judge contacted for the hearing, requested that the administrative law judge make a determination based upon a review of the information in the administrative file.

Hafter

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 19, 2000. The claimant not participate. The employer participated by , . After the hearing ended the telephoned the appeal section and asked that that hearing be reopened. The 's request was granted and hearing notices were mailed to the parties' last-known addresses of record. A telephone hearing was held on . The claimant participated personally. The employer participated by , .

Evidence:**aevid**

The offered exhibit which was marked for identification as Exhibit . Exhibit was received into evidence.

bevid

The offered exhibits which were marked for identification as Exhibits and . Exhibits and were received into evidence.

Devid

Exhibit D-1 was admitted into evidence.

Findings of Fact:**afact**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on as a -time .

bfact

The administrative law judge, having considered all of the evidence in the record, finds that: The

Cfact

The requested that a decision be made based on information contained in the administrative file. This request was granted.

Lateness:

alate

The record closed at . At on called regarding the hearing. The claimant did not read the notice before the hearing.

late

The first issue in this case is whether the s request to reopen the hearing should be granted or denied.

The record was closed at . At the called and requested to participate. The received the hearing notice prior to the , hearing. The instructions inform the parties that if the party does not contact the Appeals Section and provide the phone number at which the party can be contacted for the hearing, the party will not be called for the hearing. The first time the directly contacted the Appeals Section was on , after the scheduled start time for the hearing. The had not read all the information on the hearing notice, and had assumed that the Appeals Section would initiate the telephone contact even without a response to the hearing notice.

rlate

Ref 94 (delete last two sentences)

The first time the called the Appeals Section for the , hearing was after the hearing had been closed. Although the intended to participate in the hearing, the failed to read or follow the hearing notice instructions and did not contact the Appeals Section prior to the hearing. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. Intent alone is not sufficient. An intent must be accompanied by an overt act carrying out that intent. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). In the case of an appeal hearing, that overt act is to call the Appeals Section and provide a telephone number where the party may be contacted. The did not do this and therefore has not established good cause to reopen the hearing. The 's request to reopen the hearing is denied.

Issue:**aissue**

The issue is whether the claimant . For the following reasons the administrative law judge concludes .

Decisions:

adec

The representative's decision (reference 0) is .

bdec

The claimant was discharged for no disqualifiable reason. The claimant is qualified for benefits provided is otherwise eligible.

cdec

The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until has worked in and has been paid wages for insured work equal to ten times weekly benefit amount provided is otherwise eligible.

ddec

Is disqualified and benefits are withheld until has earned ten times weekly amount in insured wages, provided is otherwise eligible.

edec

The claimant is not eligible to receive unemployment insurance benefits because was discharged from work for misconduct. Benefits are withheld until has worked in and has been paid wages for insured work equal to ten times weekly benefit amount provided is otherwise eligible.

fdec

The claimant was discharged. Misconduct has not been established. Benefits are allowed provided the claimant is otherwise eligible.

gdec

The representative's decision dated , (reference 0) is . The warning

hdec

The claimant voluntarily quit with good cause attributable to the employer and is qualified to receive unemployment insurance benefits provided is otherwise eligible.

Overpayment:

aover

The claimant has received benefits in the amount of \$ since filing claim herein. Pursuant to this decision, those benefits now constitute an overpayment which must be repaid.

bover

The claimant is overpaid benefits in the amount of \$.

Read

The claimant does not read . reads the mail and explains it to the claimant. The evidence establishes the claimant does not read . The claimant relies on to translate the mail and provide important information.

etruib

eligible to receive unemployment insurance benefits.

Requali

The claimant's disregard of the employer's interests is misconduct. This is a disqualifying separation. However, the claimant has requalified under the provisions of the above Code section by earning ten times weekly benefit amount prior to filing claim for benefits.

Arequali

The claimant is qualified for benefits provided is otherwise eligible. However, the employer's account shall not be charged with benefits paid to the claimant.

late

The record was closed at . At the called and requested to participate. The received the hearing notice prior to the , hearing. The instructions inform the parties that if the party does not contact the Appeals Section and provide the phone number at which the party can be contacted for the hearing, the party will not be called for the hearing. The first time the directly contacted the Appeals Section was on , after the scheduled start time for the hearing. The had not read all the information on the hearing notice, and had assumed that the Appeals Section would initiate the telephone contact even without a response to the hearing notice.

alate

The first issue in this case is whether the s request to reopen the hearing should be granted or denied.

Ref 94 (delete last two sentences)

The first time the called the Appeals Section for the , hearing was after the hearing had been closed. Although the intended to participate in the hearing, the failed to read or follow the hearing notice instructions and did not contact the Appeals Section prior to the hearing. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. Intent alone is not sufficient. An intent must be accompanied by an overt act carrying out that intent. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). In the case of an appeal hearing, that overt act is to call the Appeals Section and provide a telephone number where the party may be contacted. The did not do this and therefore has not established good cause to reopen the hearing. The 's request to reopen the hearing is denied.

- [\[Cases\]](#)
- [\[Anderson\]](#)
- [\[Areares\]](#)
- [\[Brockway\]](#)
- [\[Broom\]](#)
- [\[In the absence of agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d 332 \(1942\).\]](#)
- [\[\]](#)
- [\[Bump\]](#)
- [\[Butts\]](#)
- [\[Childcare\]](#)
- [\[Competition\]](#)
- [\[Cook\]](#)
- [\[Davoren\]](#)
- [\[Diggs\]](#)
- [\[Endicott\]](#)
- [\[Eswood\]](#)
- [\[Floyd\]](#)
- [\[eyewit\]](#)
- [\[Flesher\]](#)
- [\[Goodwin\]](#)
- [\[Greene\]](#)
- [\[Hedges\]](#)
- [\[Henecke\]](#)
- [\[Mccourtney\]](#)
 - [\[Roberts\]](#)

Cases

right

An employer has a right to expect employees to conduct themselves in a certain manner. The claimant disregarded the employer's right by . The claimant's disregard of the employer's interests is misconduct. As such is not eligible to receive unemployment insurance benefits.

alcohol

Consumption of alcohol on the job following warning constitutes job misconduct where the claimant checked into an alcohol abuse program after the discharge and stopped drinking, showing that his actions were volitional. Ayersman v. Iowa Department of Job Service, 417 N.W.2d 466 (Iowa 1988).

amana

Where employees were offered work by their same employer during a plant shutdown but refused, they were not "available" and temporary unemployment provisions of the Code waiving the availability requirement are not applicable. Amana Refrigeration v. Iowa Department of Job Service, 334 N.W.2d 316 (Iowa App. 1983).

Anderson

Drug screening pursuant to Section 730.5(7) was positive. The claimant went through required evaluation but refused to enter treatment. The claimant had chosen not to participate in employer's group insurance which would have defrayed part of the cost. Refusal to enter treatment constituted insubordination. Anderson v. Warren Distribution Company, 469 N.W.2d 687 (Iowa 1991).

Areares

A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returns to the employer and offers services but the regular or comparable suitable work was not available. Area Residential Care, Inc. v. Iowa Department of Job Service, 323 N.W.2d 257 (Iowa 1982).

interview

There was no bone fide offer of work made by the employer. The employer asked the claimant to attend an interview. The claimant believed the position involved work and was not comfortable with that kind of work. An interview does not qualify as a bona fide offer of work.

Brockway

Claimant injured on the job did not return to employer upon release by physician. Benefits denied. Brockway v. Employment Appeal Board, 469 N.W.2d 256 (Iowa App. 1991).

Broom

In the absence of agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d

332 (1942).**Bump**

Iowa Code Section 96.4-3 refers to Section 96.5-1-h, which provides that an individual is not subject to disqualification if the individual leaves work in lieu of exercising a right to bump or oust a fellow employee with less seniority from his or her job. These statutes and the rule implementing these statutes, 871 IAC 24.24(5), make it clear that a claimant who is eligible to receive unemployment insurance benefits and is not subject to disqualification on the basis that he has voluntarily quit work, is unavailable for work, or has failed to make an active search for work. The claimant, therefore, is available for work and eligible for benefits.

burden

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The employer discharged the claimant and has the burden of proof to show misconduct. The employer did not participate in the appeal hearing and no evidence of misconduct was presented at that hearing. Consequently the employer did not meet its burden of proof to show misconduct. Benefits are allowed.

Butts

Section 96.5-1-d of the Code was properly applied to a claimant who requested a leave of absence during pregnancy. Butts v. Iowa Department of Job Service, 328 N.W.2d 515 (Iowa 1983).

Childcare

Absenteeism arising out of matters of purely personal responsibilities such as child care have been held not excusable. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984).

traffic

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980).

Competition

Although only preparing or making arrangements to enter into competition with one's employer does that employer no legally cognizable harm, soliciting fellow employees to leave their work in favor of a competitor breaches the employee's common law duty of loyalty. Porth v. Iowa Department of Job Service, 372 N.W.2d 230 (Iowa 1985).

Cook

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980). Court of Appeals held it not misconduct when claimant who needed to drive for employer lost insurability when he went into ditch to avoid hitting deer. Evidence showed no willful violation after he was placed on notice that his driving was a problem. Fairfield Toyota, Inc. v. Bruegge, 449 N.W.2d 395 (Iowa App. 1985).

crosser

If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976).

Davoren

The claimant has the burden of proof in establishing his ability and availability for work. Davoren v. Iowa Employment Security Commission, 277 N.W.2d 602 (Iowa 1979).

Diggs

Off premises during lunch hour, claimant assaulted co-worker for alleged rumors spread by co-worker. Court of Appeals allowed benefits, noting lack of evidence of negative impact at work place plus fact that claimant finished the day before being discharged. Diggs. Employment Appeal Board, 478 N.W.2d 432 (Iowa App. 1991).

Endicott

The question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all circumstances and the employee's reason for noncompliance. Endicott v. Iowa Department of Job Service, 367 N.W.2d 300 (Iowa App. 1985).

Eswood

There are two prongs to the determination of whether a successorship exists. The purchaser must acquire the “organization, trade or business, or substantially all of the assets” of the transferor, and there must be a continuity of business under Iowa Code Section 96.7-3-b. Eswood Homes, Inc. v. Iowa Department of Job Service, 279 N.W.2d 33 (Iowa Appeals 1985).

Floyd

Where an employer is aware of the nature of the claimant’s illness and has fair warning that he may be absent for an extended period of time due to that illness, failure of the employee to contact the employer is not misconduct as the absences are excused. This is so where the claimant had no telephone and was bedridden with scarlet fever. Floyd v. Iowa Department of Job Service, 338 N.W.2d 536 (Iowa App. 1983).

overtime

The refusal to work overtime hours can constitute job misconduct in some circumstances. The administrative law judge should consider notice, history of working overtime and the cause of the employee’s refusal. Endicott v. Iowa Department of Job Service, 367 N.W.2d 300 (Iowa App. 1985).

eyewit

The administrative law judge concludes that the hearsay evidence provided by the employer is not more persuasive than the claimant’s denial of such conduct. The employer has not carried its burden of proof to establish that the claimant committed any act of misconduct in connection with employment for which she was discharged. Misconduct has not been established. The claimant is allowed unemployment insurance benefits.

Flesher

Repeated violations of a security rule may indicate substantial disregard of an employer’s interest. Flesher v. Iowa Department of Job Service, 372 N.W.2d 230 (Iowa 1985).

Goodwin

When an employer discharges an employee for misconduct, the employee is disqualified from receiving unemployment benefits. We think that it is consistent with the statutory framework to extend that analysis to hold that in situations in which an employer demotes an employee for misconduct warranting discharge,

an employee who leaves employment should be disqualified from receiving benefits. Goodwin v. BPS Guard Services, Inc. 524 N.W.2d 28 (Minn.App. 1994).

reprimand

The failure to acknowledge the receipt of a written reprimand by signing it constitutes job misconduct as a matter of law. Green v. Iowa Department of Job Service, 299 N.W.2d 651 (Iowa 1980).

Greene

Repeated unintentional careless behavior of claimant towards subordinates and others, after repeated warnings, is misconduct. Greene v. Employment Appeal Board, 426 N.W.2d 659 (Iowa App. 1988).

Hedges

A "recovery" under Iowa Code Section 96.5-1-d means a complete recovery without restriction. Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985).

Henecke

Evidence established that the claimant stated three times that his employer should stay out of his way or he would be sorry. The Court of Appeals found that this threat constituted misconduct. At page 576, the court went on to state, "Furthermore, an employer has the right to expect decency and civility from its employees." The court found substantial evidence of offensive words and body language in the record of the case. Henecke v. Iowa Department of Job Service, 533 N.W.2d 573 (Iowa App. 1995).

henry

Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. Henry v. Iowa Department of Job Service, 391 N.W.2d 731 (Iowa App. 1986).

higgins

Excessive unexcused absenteeism, a concept which includes tardiness, is misconduct. Higgins v. Iowa Department of Job Service, 275 N.W.2d 187 (Iowa 1984).

hurtado

Sleeping on the job on two occasions, one year apart, can constitute job misconduct. The grounds for discharge listed under a contract of hire are irrelevant to determination of eligibility for Job Service benefits in a misconduct situation. Hurtado v. Iowa Department of Job Service, 393 N.W.2d 309 (Iowa 1986).

layoff

105

The employer laid the claimant off for lack of work from through . When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant is eligible to receive unemployment insurance benefits for that period.

license

The failure of an employee to maintain a license which must have to perform the duties of the job is misconduct. The claimant's license was removed. subsequent termination from employment was misconduct. is not eligible to receive unemployment insurance benefits.

quenot

The claimant has an obligation to give immediate notice to the employer of a necessity for absence as soon as the claimant has knowledge of that necessity; however, where an individual left employment as the result of a mental disturbance that left her unaware of her surroundings, it was satisfactory to contact the employer as soon as she was able. Quenot v. Iowa Department of Job Service, 339 N.W.2d 624 (Iowa App. 1983).

sallis

A single unexcused absence does not constitute excessive unexcused absenteeism. Sallis v. Employment Appeal Board, 437 N.W.2d 895 (Iowa 1989).

shontz

Where disability is caused or aggravated by the employment, a resultant separation is with good cause attributable to the employer. Shontz v. Iowa Employment Security Commission, 248 N.W.2d 88 (Iowa 1976).

suluki

The claimant resigned alleging a medical condition caused by working

conditions. The Supreme Court held that in medical resignations, the claimant must first give the employer notice of the problem and an opportunity to remedy it. Suluki v. Employment Appeal Board, 503 N.W.2d (Iowa 1993).

uniweld

“Good cause” for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973).

white

Subparagraph (d) of Iowa Code Section 96.5-1 is not applicable where it is impossible for the claimant to return to the former employment because of medical restrictions connected with the work. White v. Employment Appeal Board, 487 N.W.2d 342 (Iowa 1992).

biltmore

Where the work offered does not equal the statutorily prescribed percentage of base period wages, the work is unsuitable as a matter of law. Biltmore Enterprises, Inc. v. Iowa Department of Job Service, 334 N.W.2d 284 (Iowa 1983).

clark

Three incidents of tardiness or absenteeism after a warning constitutes misconduct. Clark v. Iowa Department of Job Service, 317 N.W.2d 517 (Iowa App. 1982).

cosper

Excessive absences are not misconduct unless unexcused. Absences due to properly reported illness can never constitute job misconduct since they are not volitional. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982).

bopcos

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982).

Mccourtney

In light of good faith effort, absences due to inability to obtain child care for sick infant, although excessive, did not constitute misconduct. McCourtney v. Imprimis Technology, Inc., 465 N.W.2d 721 (Minn. App. 1991).

careless

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

acobb

The law presumes a claimant has left employment with good cause when quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the employee believes are intolerable or detrimental and that intends to quit employment unless the conditions are corrected. The employer must be allowed a chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

pfeiler

An incident of horseplay may constitute job disqualifying misconduct where there has been a previous record of discipline and warnings. Pfeiler v. Employment Appeal Board, 455 N.W.2d 307 (Iowa App. 1990).

gilliam

Repeated failure to follow an employer's instructions in the performance of duties is misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990).

poorperf

Poor work performance is not misconduct in the absence of evidence of intent. Miller v. Employment Appeal Board, 423 N.W.2d 211 (Iowa App. 1988). The employer discharged the claimant for poor work performance and has the burden of proof to show evidence of intent. The employer did not provide any evidence of intent at the hearing. The claimant's poor work performance was a result of his lack of training. Consequently the employer did not meet its burden of proof to show misconduct. Benefits are allowed.

hunton

Misconduct connotes volition. A failure in job performance which results from inability or incapacity is not volitional and therefore not misconduct. Hunton v. Iowa Department of Job Services, 275 N.W.2d 445 (Iowa 1979).

final

26

The employer must establish not only misconduct but that there was a final incident of misconduct which precipitated the discharge. The last incident provided by the employer occurred on . The claimant was not discharged until . The employer has failed to provide any evidence of willful and deliberate misconduct which was the final incident leading to the discharge and disqualification may not be imposed.

compelling

14/15

The employer has the burden of proof to show misconduct. The employer did not participate in the fact-finding interview or the appeal. Based on the administrative file, the employer discharged the claimant for . The employer has not met his burden of proof to demonstrate that the claimant's constituted work-connected misconduct.

nocall

On , and, 1999, the claimant did not appear for work and did not call to inform the employer of the reason for the failure to appear for work. The employer has a policy that an employee will be terminated if the employee is absent for three days without giving notice to the employer. The claimant was terminated on for failing to appear for work without notice for three days.

nocrea

The claimant was absent from work for days without giving notice to the employer. The employer has a rule that if the employee is absent without notice to the employer for three days the employee is deemed to have voluntarily quit. The claimant is deemed to have voluntarily quit based on his absence from work for days without giving notice to the employer. There is no evidence of good cause attributable to the employer.

successive

The issue is whether the claimant is between successive terms with an educational institution. For the following reasons the administrative law judge concludes is.

37A

The claimant is employed by an educational institution. The claimant worked for the season and is expected to work for the season. The two seasons are successive terms. The claimant is between successive terms with an educational institution.

myers

“The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made.” This is ordinarily a fact question for the agency. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983) is overruled “to the extent [it] contradicts this position. Myers v. Employment Appeal Board, 462 N.W.2d 734 (Iowa App. 1990).

myersthre

A threat to make it miserable for the employer is sufficient to establish misconduct. Myers v. Employment Appeal Board, 462 N.W.2d 734 (Iowa App. 1990).

Roberts

Unreported absences do not constitute job misconduct if the failure to report is caused by mental incapacity. Roberts v. Iowa Department of Job Service, 356 N.W.2d 218 (Iowa 1984).

sherbert

A Seventh Day Adventist discharged for not working Saturdays did not commit job misconduct. Job Service cannot require an employee to choose between his religion and job insurance benefits. Sherbert v. Verner, 374 U.S. 398 (1963).

taylor

A voluntary quit based on illness is clearly disqualifying except upon the advice of a licensed and practicing physician. Taylor v. Iowa Department of Job Service, 362 N.W.2d 534 (Iowa 1985).

kehde

A claimant discharged due to possession of a lit marijuana cigarette is guilty of misconduct because the actions are a violation of criminal law. Kehde v. Iowa Department of Job Service, 318 N.W.2d 202 (Iowa 1979).

traile

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980).

warrell

Foul language of itself can constitute disqualifying job misconduct. Warrell v. Iowa Department of Job Service, 356 N.W.2d 587 (Iowa App. 1984).

wills

Individual subject to weight restriction did not voluntarily quit when employer terminated relationship pursuant to its policy of not allowing light-duty work. Wills v. Employment Appeal Board, 447 N.W.2d 137 (Iowa 1989).

sects

Section 96.5-1 - Voluntary Quit

Section 96.5-2-a – Discharge for Misconduct

Section 96.3-7 – Overpayment

January

February

March

April

May

June

July

August

September

October

November

December

Alj

Administrative Law Judge

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

IOWA WORKFORCE DEVELOPMENT DEPARTMENT	<p>68-0157 (9-06) - 3091078 - EI</p> <p style="text-align: center;">APPEAL NO. 10A-UI--LT ADMINISTRATIVE LAW JUDGE DECISION</p> <p>APPEAL RIGHTS:</p> <p>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:</p> <p style="text-align: center;"><i>Employment Appeal Board 4th Floor – Lucas Building Des Moines, Iowa 50319</i></p> <p>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.</p> <p>AN APPEAL TO THE BOARD SHALL STATE CLEARLY:</p> <p>The name, address and social security number of the claimant.</p> <p>A reference to the decision from which the appeal is taken.</p> <p>That an appeal from such decision is being made and such appeal is signed.</p> <p>The grounds upon which such appeal is based.</p> <p>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.</p> <p>SERVICE INFORMATION:</p> <p>A true and correct copy of this decision was mailed to each of the parties listed.</p>
---	---

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

Claimant IOWA WORKFORCE DEVELOPMENT DEPARTMENT	68-0157 (9-06) - 3091078 - EI <p style="text-align: center;">APPEAL NO. 10A-UI--LT ADMINISTRATIVE LAW JUDGE DECISION</p> <p style="text-align: right;">OC: /09</p> <p style="text-align: right;">Claimant: Appellant ()</p>
---	---

Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the (reference 0) decision that denied benefits because of a lack of at least \$250.00 in insured wages during or after the prior claim year not having sufficient wages with other employers in the base period to be eligible to draw benefits. After due notice was issued, a hearing was held on . Claimant participated.

ISSUE:

The issue is whether claimant earned insured wages of \$250.00 or more during or after the previous benefit year.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant did earn at least \$250.00 in insured wages during or subsequent to the prior claim year beginning . does have sufficient wages in the base period from other employers to be eligible to draw benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is eligible to receive benefits during the subsequent benefit year. does have sufficient wages in the base period from other employers.

Ref. 12

Because the claimant did earn at least \$250.00 in insured wages during or subsequent to the claim year beginning , does have sufficient wages in the base period from other employers to be eligible to draw benefits, is eligible to receive benefits during the current claim year beginning .

DECISION:

The (reference 0) decision is . The claimant is eligible to receive benefits during the current claim year beginning . If claimant does earn \$250.00 in insured wages may present evidence of that to the local office to determine eligibility.

Dévon M. Lewis

Administrative Law Judge

Decision Dated and Mailed

dml/

Iowa Code § 96.6(2) - Timeliness of Appeal

STATEMENT OF THE CASE:

filed an appeal from the , 200, reference 0, decision that benefits. After due notice was issued, a hearing was held by telephone conference call on , 200. Claimant did participate. Employer did participate through . Department's Exhibit D-1 was received.

ISSUE:

The issue is whether the 's appeal is timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to 's last known address of record on , 200. did receive the decision within ten days. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by , 200. The appeal was not filed until , 200, which is after the date noticed on the disqualification decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes 's appeal is untimely.

Ref 22

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

Pursuant to rules 871 IAC 26.2(96)(1) and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983).

The record in this case shows that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives'

decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott*, 319 N.W.2d 244, 247 (Iowa 1982). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973). The record shows that the appellant did have a reasonable opportunity to file a timely appeal.

The administrative law judge concludes that failure to file a timely appeal within the time prescribed by the Iowa Employment Security Law was not due to any Agency error or misinformation or delay or other action of the United States Postal Service pursuant to 871 IAC 24.35(2). The administrative law judge further concludes that the appeal was not timely filed pursuant to Iowa Code § 96.6(2), and the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the appeal. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

DECISION:

The , 200, reference 0, decision is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect.

Teresa K. Hillary

Administrative Law Judge

Decision Dated and Mailed

tkh/

Message: Re: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861691
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ Re: Participation Tip Sheet attached.

From Wahlert, Teresa [IWD] **Date** Friday, October 11, 2013 12:18 PM
To Mormann, Marlon [IWD]; Koonce, Kerry [IWD]
Cc Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Wise, Steve [IWD]

Kerry - I have also cleared this tip sheet with Wilkinson - it is ready to go- let's get this up on our web pages in the appropriate spots

- Teresa Wahlert

On Oct 10, 2013, at 5:43 AM, "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov> wrote:

Yes, circulated many times and did a dozen or more changes. So this is a solid final.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Wahlert, Teresa [IWD]
Sent: Wednesday, October 09, 2013 8:46 PM
To: Mormann, Marlon [IWD]
Subject: Re: Participation Tip Sheet attached.

Did you circulate among your group?

- Teresa Wahlert

On Oct 9, 2013, at 2:37 PM, "Mormann, Marlon [IWD]"
<Marlon.Mormann@iwd.iowa.gov> wrote:

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

<Employer participaiton at fact finding tip.docx>

Message: Re: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861693
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Re: Participation Tip Sheet attached.**

From Wahlert, Teresa [IWD] **Date** Friday, October 11, 2013 12:19 PM
To Mormann, Marlon [IWD]
Cc

Thanks for your work on this!

- Teresa Wahlert

On Oct 10, 2013, at 5:43 AM, "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov> wrote:

Yes, circulated many times and did a dozen or more changes. So this is a solid final.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Wahlert, Teresa [IWD]
Sent: Wednesday, October 09, 2013 8:46 PM
To: Mormann, Marlon [IWD]
Subject: Re: Participation Tip Sheet attached.

Did you circulate among your group?

- Teresa Wahlert

On Oct 9, 2013, at 2:37 PM, "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov> wrote:

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

<Employer participaiton at fact finding tip.docx>

Message: Fwd: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861692
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Fwd: Participation Tip Sheet attached.**

From Wahlert, Teresa [IWD] **Date** Friday, October 11, 2013
12:19 PM
To Bervid, Joseph [IWD]; Olivencia,
Nicholas [IWD]
Cc

FYI

- Teresa Wahlert

Begin forwarded message:

From: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Date: October 11, 2013 at 12:18:15 PM CDT
To: "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov>, "Koonce, Kerry [IWD]" <Kerry.Koonce@iwd.iowa.gov>
Cc: "Hillary, Teresa [IWD]" <Teresa.Hillary@iwd.iowa.gov>, "Lewis, Devon [IWD]" <Devon.Lewis@iwd.iowa.gov>, "Wise, Steve [IWD]" <Steven.Wise@iwd.iowa.gov>
Subject: Re: Participation Tip Sheet attached.

Kerry - I have also cleared this tip sheet with Wilkinson - it is ready to go- let's get this up on our web pages in the appropriate spots

- Teresa Wahlert

On Oct 10, 2013, at 5:43 AM, "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov> wrote:

Yes, circulated many times and did a dozen or

more changes. So this is a solid final.

**Marlon Mormann, Administrative Law Judge
515-265-3512**

From: Wahlert, Teresa [IWD]
Sent: Wednesday, October 09, 2013 8:46 PM
To: Mormann, Marlon [IWD]
Subject: Re: Participation Tip Sheet attached.

Did you circulate among your group?

- Teresa Wahlert

On Oct 9, 2013, at 2:37 PM, "Mormann, Marlon [IWD]"
<Marlon.Mormann@iwd.iowa.gov> wrote:

Here is the final draft for your approval. What next?

**Marlon Mormann, Administrative
Law Judge
515-265-3512**

<Employer participaiton at fact finding tip.docx>

Message: Fwd: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861697
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Fwd: Participation Tip Sheet attached.**

From Wahlert, Teresa [IWD] **Date** Friday, October 11, 2013 12:47 PM
To Olivencia, Nicholas [IWD]; Koonce, Kerry [IWD]; Bervid, Joseph [IWD]
Cc

 [Employer participaiton at fact finding tip.docx](#) (14 Kb HTML)  [ATT00001.htm](#) (1 Kb HTML)

- Teresa Wahlert

Begin forwarded message:

From: "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov>
Date: October 9, 2013 at 2:36:45 PM CDT
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: Participation Tip Sheet attached.

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

PARTICIPATION AT FACT FINDING INTERVIEWS

EMPLOYERS' UNEMPLOYMENT TIP SHEET.

Effective July 1, 2013 an employer may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in the unemployment hearing. See Iowa Code section 96.3(7)b.

Personal participation by an employer representative with firsthand knowledge will almost always suffice to prevent charges to employer's account in the above circumstance. *An employer representative, who has firsthand knowledge about the issue and provides information to the fact-finder, is the best kind of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that if unrefuted would be sufficient to allow employer to win. See Rule 871 IAC 24.10(1).

Mandatory requirements when participating by documents.

- Employer must provide the name and telephone number of a representative with firsthand information who is available to be contacted at the time of the fact finding interview.
- Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

The following are inadequate participation at fact finding?

- Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.
- Information submitted after fact finding is over is not participation.

Message: Fwd: Participation Tip Sheet attached.**Case Information:**

Message Type: Exchange
 Message Direction: External, Outbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:26 PM
 Item ID: 40861703
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Fwd: Participation Tip Sheet attached.**

From Wahlert, Teresa [IWD] **Date** Sunday, October 13, 2013 12:42 PM
To Mike Ralston
Cc

 [Employer participaiton at fact finding tip.docx](#) (14 Kb HTML)  [ATT00001.htm](#) (1 Kb HTML)

Attached is the tip sheet we discussed

- Teresa Wahlert

Begin forwarded message:

From: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Date: October 11, 2013 at 12:47:03 PM CDT
To: "Olivencia, Nicholas [IWD]" <Nicholas.Olivencia@iwd.iowa.gov>, "Koonce, Kerry [IWD]" <Kerry.Koonce@iwd.iowa.gov>, "Bervid, Joseph [IWD]" <Joseph.Bervid@iwd.iowa.gov>
Subject: Fwd: Participation Tip Sheet attached.

- Teresa Wahlert

Begin forwarded message:

From: "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov>
Date: October 9, 2013 at 2:36:45 PM CDT
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: Participation Tip Sheet attached.

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

PARTICIPATION AT FACT FINDING INTERVIEWS

EMPLOYERS' UNEMPLOYMENT TIP SHEET.

Effective July 1, 2013 an employer may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in the unemployment hearing. See Iowa Code section 96.3(7)b.

Personal participation by an employer representative with firsthand knowledge will almost always suffice to prevent charges to employer's account in the above circumstance. *An employer representative, who has firsthand knowledge about the issue and provides information to the fact-finder, is the best kind of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that if unrefuted would be sufficient to allow employer to win. See Rule 871 IAC 24.10(1).

Mandatory requirements when participating by documents.

- Employer must provide the name and telephone number of a representative with firsthand information who is available to be contacted at the time of the fact finding interview.
- Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

The following are inadequate participation at fact finding?

- Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.
- Information submitted after fact finding is over is not participation.

Message: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861686
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Participation Tip Sheet attached.**

From Mormann, Marlon [IWD] **Date** Wednesday, October 09, 2013 2:37 PM
To Wahlert, Teresa [IWD]
Cc

 [Employer participaiton at fact finding tip.docx](#) (18 Kb HTML)

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

PARTICIPATION AT FACT FINDING INTERVIEWS EMPLOYERS' UNEMPLOYMENT TIP SHEET.

Effective July 1, 2013 an employer may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in the unemployment hearing. See Iowa Code section 96.3(7)b.

Personal participation by an employer representative with firsthand knowledge will almost always suffice to prevent charges to employer's account in the above circumstance. *An employer representative, who has firsthand knowledge about the issue and provides information to the fact-finder, is the best kind of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that if unrefuted would be sufficient to allow employer to win. See Rule 871 IAC 24.10(1).

Mandatory requirements when participating by documents.

- Employer must provide the name and telephone number of a representative with firsthand information who is available to be contacted at the time of the fact finding interview.
- Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

The following are inadequate participation at fact finding?

- Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.
- Information submitted after fact finding is over is not participation.

Message: RE: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861688
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: Participation Tip Sheet attached.

From Mormann, Marlon [IWD] **Date** Thursday, October 10, 2013 5:43 AM
To Wahlert, Teresa [IWD]
Cc

Yes, circulated many times and did a dozen or more changes.
So this is a solid final.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Wahlert, Teresa [IWD]
Sent: Wednesday, October 09, 2013 8:46 PM
To: Mormann, Marlon [IWD]
Subject: Re: Participation Tip Sheet attached.

Did you circulate among your group?

- Teresa Wahlert

On Oct 9, 2013, at 2:37 PM, "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov> wrote:

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

<Employer participaiton at fact finding tip.docx>

Message: FW: letter

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:38 PM
Item ID: 40861906
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: letter**

From Hillary, Teresa [IWD] **Date** Thursday, April 03, 2014 11:33 AM
To Olivencia, Nicholas [IWD]
Cc

 [Pre-Top letter.docx](#) (69 Kb HTML)

From: Eklund, David [IWD]
Sent: Tuesday, March 25, 2014 2:38 PM
To: Hillary, Teresa [IWD]
Subject: RE: letter

Here you go.

From: Hillary, Teresa [IWD]
Sent: Tuesday, March 25, 2014 2:30 PM
To: Eklund, David [IWD]
Subject: letter

Hey, can you shoot me a copy of the letter that goes out to cl when we are keeping their federal income tax refund.

Thanks,

Teresa K. Hillary
Iowa Workforce Development

1000 E Grand Avenue
Des Moines IA 50319

Phone: 515.725.2683
FAX: 515.242.5144

SOCIAL SECURITY NO. XXX-XX-####

DATE OF NOTICE MM/DD/YY

AMOUNT TO BE CERTIFIED \$##, ###. ##

CLAIMANT NAME

ADDRESS LINE 1

ADDRESS LINE 2

CITY, STATE and ZIPCODE

Return Top Portion With Your Payment

Notice of Intent to Intercept Federal Income Tax Refund

Our records indicate that you owe Iowa Workforce Development (The Agency) the sum shown above for overpaid unemployment insurance benefits and/or penalties. Failure to satisfy this debt within sixty days of this notice will result in your debt being referred to the United States Department of Treasury (the Treasury) for collection through the Treasury Offset Program (TOP) pursuant 26 U.S.C 6402.

Through the TOP, the Treasury is authorized to offset your Federal income tax refund to repay this debt. If this debt is referred to collection through the TOP, you will also be charged an administrative collection fee. To avoid offset of your Federal income tax refund and the additional fee, you must pay your debt in full within sixty days of this notice. **The interception of your Federal Income Tax refund could occur regardless if you are in repayment status.**

The Agency has established this debt is legally enforceable on your unemployment claim. However, you do have the right to present evidence within sixty days of the date of this notice that all or part of this debt is not legally enforceable and should not be subject to offset. Examples of evidence would include proof that this debt was discharged in bankruptcy, proof that this debt has previously been paid, or proof that you are not the person identified as the debtor in this notice. The Agency will consider all evidence presented and will determine if the debt will be referred to the Treasury.

If you and your spouse file a joint Federal income tax return, your spouse may be entitled to a portion of the Federal income tax refund. Your spouse should obtain IRS Form 8379, Injured Spouse Claim and Allocation, if applicable. The instructions accompanying Form 8379 will explain the steps your spouse must take. This form is online at www.irs.gov/form8379.

If you do not remit payment in full or take any action in response to this notice within the sixty day deadline, the debt will be referred to the Treasury. Please mail in your payment along with the top

portion of this letter. Make your check or money order payable to Iowa Workforce Development. You can also pay this debt online using a credit or debit card at www.iowaworkforcedevelopment.gov by clicking "Resolve Overpayment". If you pay with a credit or debit card, you will be charged a processing fee, in addition to the amount of your payment.

If you have any questions, please email uitop@iwd.iowa.gov

Send all payments and correspondence to: Iowa Workforce Development

UISC/TOP

PO BOX 10332

Des Moines, Iowa 50306-0332

Message: Appeal section for the handbook for ERs.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:41 PM
Item ID: 40861940
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Appeal section for the handbook for ERs.**

From Hillary, Teresa [IWD] **Date** Monday, April 07, 2014 12:48 PM
To Adams, Lori [IWD]
Cc

 [Facts draft 1 Appeals p15.doc](#) (37 Kb HTML)  [Facts draft 1 EAB.doc](#) (33 Kb HTML)

Lori,

Thanks a million!

Teresa K. Hillary

Iowa Workforce Development
1000 E Grand Avenue
Des Moines IA 50319

Phone: 515.725.2683

FAX: 515.242.5144

Appeal Rights Information

First-Level Appeal—Administrative Law Judge

If the claimant or employer disagrees with a representative's decision, either party has the right to appeal and present testimony and documents to an administrative law judge. The appeal must be postmarked or received within 10 calendar days after the mailing date shown on the representative's decision. Mail the appeal to:

Iowa Workforce Development

Appeals Bureau

1000 East Grand Avenue

Des Moines IA 50309-0209

Or fax it to 515-242-5144

A Notice of Appeal form and answers to general questions may be found online at <http://www.iowaworkforce.org/ui/appeals/index.html>. If you cannot find the information you need, you may contact the UI Service Center at 866-239-0843, or the Appeals Bureau at 515-281-3747 or 800-532-1483.

If the decision is appealed, a formal hearing by telephone conference call with an administrative law judge is scheduled. Either party may request an in-person hearing, but that will likely delay the hearing and decision, resulting in a delay of benefits or a larger overpayment. The party requesting the in-person hearing must travel to the Iowa WORKS Center closest to the **other** party. If weekly claims are not filed during the appeal process, benefits will not be paid for those weeks regardless of the Appeal decision.

The telephone hearing notice requires the parties to *immediately* register their phone number online by going to <http://ia.c2tinc.com/register> or you may call the Appeals Bureau at the number listed on the hearing notice where you and any witnesses can be reached for the hearing. **Warning:** If you do not follow the hearing notice instructions and register online or call the Appeals Bureau prior to the scheduled hearing, you will **not** be called to participate. A party's failure to participate may affect the outcome of the decision. If you change your telephone number, notify the Appeals Bureau immediately. Unlike the fact-finding interview, an appeal hearing is a **formal** process

where all parties are sworn in and a digital audio recording of the hearing is made. The administrative law judge will take witness testimony concerning the issues on the hearing notice, even if a statement was already given at the fact-finding interview. Either party can submit additional evidence, such as documents, in advance of the hearing. Attorneys or representatives are not required for participation, but if a party chooses to hire an attorney or other representative it will be at their own expense.

READ THE IMPORTANT INFORMATION ON THE FRONT AND BACK OF THE HEARING NOTICE.

The administrative law judge will make an impartial decision based on the information presented at the hearing. The administrative law judge's decision will usually be mailed within 10 to 14 days.

Second-Level Appeal - Employment Appeal Board

If you or the employer disagrees with the administrative law judge's decision, it may be appealed to the Employment Appeal Board. The appeal must be postmarked or faxed within 15 calendar days from the mailing date of the administrative law judge's decision. Members of the Appeal Board are appointed by the governor to equally represent (1) employees, (2) employers, and (3) the general public. The Appeal Board is in the Iowa Department of Inspections and Appeals, located in the Lucas State Office Building. All parties will receive a compact disc copy of the testimony recording from the administrative law judge's hearing and will be given an opportunity to submit a written **summary** of their side. The Appeal Board does not hold a new hearing or accept new evidence. The Appeal Board decides each case by reviewing all the evidence that was presented to the administrative law judge. The board may affirm or reverse the administrative law judge's decision, send the case back to the administrative law judge for further review or order a new hearing and decision if they feel the evidence in the administrative law judge's hearing is not sufficient or is incomplete. It usually takes 60 to 180 days from the date the appeal is filed to receive the Appeal Board decision. If you disagree with the Appeal Board's decision, you may file a petition for judicial review in Iowa District Court or request a rehearing before the Appeal Board. The procedure and appeal deadlines are written on the appeal board decision.

Message: FW: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:58 PM
 Item ID: 40862445
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

FW: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

From Hillary, Teresa [IWD] **Date** Monday, March 24, 2014 2:12 PM
To Koonce, Kerry [IWD]
Cc

 [Employer participaiton at fact finding tip.docx](#) (16 Kb HTML)  [image002.gif](#) (12 Kb HTML)

fyi

From: Mormann, Marlon [IWD]
Sent: Monday, October 07, 2013 10:32 AM
To: Eklund, David [IWD]; West, Ryan [IWD]; Wilkinson, Michael [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Subject: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

I would appreciate your comments and criticisms.

EMPLOYER TIP SHEET, PARTICIPATON AT FACT FINDING INTERVIEWS.

Effective July 1, 2013 employers may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in an unemployment hearing.

Personal participation by an employer representative will almost always suffice to prevent charges to employer's account in the above circumstance. Employer should always have a knowledgeable employee representative appear and participate by telephone in a fact finding interview.

The rule also allows for participation by documentation. The employer must submit detailed factual information that if un-refuted would be sufficient to allow employer to win.

Mandatory requirements when participating by documents.

Employer is required to provide the name and telephone number of an employee representative with firsthand information who may be contacted if necessary.

Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.

The specific rule or policy relied upon must be submitted for a discharge.

For absenteeism discharges the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

What is not adequate participation at fact finding?

Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.

Information submitted after fact finding is not particitipaion.

Marlon Mormann, Administrative Law Judge
515-265-3512

EMPLOYER TIP SHEET, PARTICIPATION AT FACT FINDING INTERVIEWS.

Effective July 1, 2013 employers may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in an unemployment hearing.

Personal participation by an employer representative will almost always suffice to prevent charges to employer's account in the above circumstance. Employer should always have a knowledgeable employee representative appear and participate by telephone in a fact finding interview.

The rule also allows for participation by documentation. The employer must submit detailed factual information that if un-refuted would be sufficient to allow employer to win.

Mandatory requirements when participating by documents.

Employer is required to provide the name and telephone number of an employee representative with firsthand information who may be contacted if necessary.

Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.

The specific rule or policy relied upon must be submitted for a discharge.

For absenteeism discharges the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

What is not adequate participation at fact finding?

Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.

Information submitted after fact finding is not participation.

Message: FW: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:58 PM
 Item ID: 40862444
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

FW: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

From Hillary, Teresa [IWD] **Date** Monday, March 24, 2014 2:13 PM
To Koonce, Kerry [IWD]
Cc

 [image002.gif](#) (12 Kb HTML)

From: Lewis, Devon [IWD]
Sent: Monday, October 07, 2013 10:44 AM
To: Hendricksmeier, Bonny [IWD]; Mormann, Marlon [IWD]; Eklund, David [IWD]; West, Ryan [IWD]; Wilkinson, Michael [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hillary, Teresa [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Subject: RE: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

My impression is that the first would be non-participation. I have not seen many of these and would need more info about the second scenario to comment. Steve and Marlon, you have both spent more time with it than I have. And other ALJs, how have you handled this? Thank you, Bonny for raising the question and thanks to everyone for sharing their experiences with the issue.
 Devon

From: Hendricksmeier, Bonny [IWD]
Sent: Monday, October 07, 2013 10:39 AM
To: Mormann, Marlon [IWD]; Eklund, David [IWD]; West, Ryan [IWD]; Wilkinson, Michael [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Subject: RE: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

I just had a couple of hearings where Equifax/TALX sent in the letter stating it would not participate but also gave the phone number of someone to be contacted. In one case the FF called and the "witness" was not available, in the second one the FF did not call. What is the policy on this sort of thing?

From: Mormann, Marlon [IWD]
Sent: Monday, October 07, 2013 10:32 AM
To: Eklund, David [IWD]; West, Ryan [IWD]; Wilkinson, Michael [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Subject: Tip Sheet for Employers, Participaiton at Fact Finding, in line text and attached.

I would appreciate your comments and criticisms.

EMPLOYER TIP SHEET, PARTICIPATON AT FACT FINDING INTERVIEWS.

Effective July 1, 2013 employers may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in an unemployment hearing.

Personal participation by an employer representative will almost always suffice to prevent charges to employer's account in the above circumstance. Employer should always have a knowledgeable employee representative appear and participate by telephone in a fact finding interview.

The rule also allows for participation by documentation. The employer must submit detailed factual information that if un-refuted would be sufficient to allow employer to win.

Mandatory requirements when participating by documents.

Employer is required to provide the name and telephone number of an employee representative with firsthand information who may be contacted if necessary.

Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a

quit.

The specific rule or policy relied upon must be submitted for a discharge.

For absenteeism discharges the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

What is not adequate participation at fact finding?

Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.

Information submitted after fact finding is not participation.

Marlon Mormann, Administrative Law Judge
515-265-3512

Message: FW: tip sheet, employer participation at fact finding.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:58 PM
Item ID: 40862446
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: tip sheet, employer participation at fact finding.**

From Hillary, Teresa [IWD] **Date** Monday, March 24, 2014 2:18 PM
To Koonce, Kerry [IWD]
Cc

 [Employer participaiton at fact finding tip.docx](#) (18 Kb HTML)  [image002.gif](#) (12 Kb HTML)

From: Mormann, Marlon [IWD]
Sent: Tuesday, October 08, 2013 9:44 AM
To: Wise, Steve [IWD]; Benson, Joni [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]
Subject: tip sheet, employer participation at fact finding.

Thanks to all who chipped in to help. Here is the final draft. I will give you till noon to tear it to pieces...

Marlon Mormann, Administrative Law Judge
515-265-3512

**EMPLOYER UNEMPLOYMENT TIP SHEET, PARTICIPATION
AT FACT FINDING INTERVIEWS.**

Effective July 1, 2013 an employer may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in the unemployment hearing.

Personal participation by an employer representative with firsthand knowledge will almost always suffice to prevent charges to employer's account in the above circumstance. *An employer representative, who has first-hand knowledge about the issue and provides information to the fact-finder, is the best kind of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that if un-refuted would be sufficient to allow employer to win.

Mandatory requirements when participating by documents.

- Employer must provide the name and telephone number of an employee representative with firsthand information who is available to be contacted at the time of the fact finding interview.
- Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

What is not adequate participation at fact finding?

- Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.
 - Information submitted after fact finding is not participation.
-

Message: Re: Fwd: tip sheet

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:28 PM
 Item ID: 40861783
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:47:39 AM	Reviewed	Koonce, Kerry
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

Re: Fwd: tip sheet

From Wilkinson, Michael [IWD] **Date** Wednesday, November 20, 2013 7:31 AM
To Wahlert, Teresa [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Cc

Not yet. I can edit today.

From: Wahlert, Teresa [IWD]
Sent: Wednesday, November 20, 2013 02:29 AM
To: Wilkinson, Michael [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Subject: Fwd: tip sheet

Have you all had input to this?

- Teresa Wahlert

Begin forwarded message:

From: "Hendricksmeier, Bonny [IWD]" <Bonny.Hendricksmeier@iwd.iowa.gov>
Date: November 15, 2013 at 7:00:42 AM CST
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: tip sheet

Message: FW: tip sheet

Case Information:


Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:28 PM
 Item ID: 40861784
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:47:39 AM	Reviewed	Koonce, Kerry
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **FW: tip sheet**

From Wilkinson, Michael [IWD] **Date** Wednesday, November 20, 2013 10:54 AM
To Wahlert, Teresa [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Cc

[tipsheet.doc](#) (32 Kb HTML) [ATT00001.htm](#) (1 Kb HTML)

All three of us have concerns. We are working on it.

From: Wahlert, Teresa [IWD]
Sent: Wednesday, November 20, 2013 2:29 AM
To: Wilkinson, Michael [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Subject: Fwd: tip sheet

Have you all had input to this?

- Teresa Wahlert

Begin forwarded message:

From: "Hendricksmeier, Bonny [IWD]" <Bonny.Hendricksmeier@iwd.iowa.gov>
Date: November 15, 2013 at 7:00:42 AM CST
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: tip sheet

Off Duty Conduct

Off duty conduct must be "work related" if it is to be grounds for discharge and disqualification for misconduct. That is, it must have a direct, negative effect on the employer. *Diggs v. Employment Appeal Board*, 478 N.W.2d 432 (Iowa App. 1991).

In order for an employer to show that its employee's off-duty activities rise to the level of misconduct in connection with the employment, the employer must show by a preponderance of the evidence:

[T]hat the employee's conduct (1) had some nexus with the work; (2) resulted in some harm to the employer's interest, and (3) was in fact conduct which was (a) violative of some code of behavior impliedly contracted between employer and employee, and (b) done with intent or knowledge that the employer's interest would suffer.

Dray v. Director, 930 S.W.2d 390 (Ark. App 1996); *In re Kotrba*, 418 N.W.2d 313 (SD 1988), quoting *Nelson v. Department of Employment Security*, 655 P.2d 242 (WA 1982); 76 Am. Jur. 2d, Unemployment Compensation §§77-78.

A driver who loses their license for off duty drunk driving or other traffic violations, has created a direct negative effect on the employer. Also, too many traffic violations can cause an employer's insurance carrier to refuse to cover the driver, also a direct negative effect.

The same is true for any loss of license or certification which an employee must have in order to perform the required work duties.

Recently "Facebook" issues have resulted in disqualification. Negative comments made on social media about the employer have a tangible negative effect. The same is true of negative comments about co-workers which result in a hostile work environment and bullying.

Disqualification for off-duty conduct which does not have a direct negative effect is guided by the decision in *Kleidosty v. Employment Appeal Board*, 482 N.W.2d 416 (Iowa 1992). In that case the claimant was disqualified from unemployment benefits as a result of her being convicted of selling cocaine off duty at her home. That case rested on the employer's policy specifically prohibiting any "illegal, immoral or indecent conduct" on or off the premises and whether or not on company time.

The Supreme Court emphasized this specific rule as the reason for the disqualification. The rule was broad, general and all encompassing. The claimant was disqualified for violating that rule, not because of selling the cocaine per se.

Kleidosty did not require a showing of adverse impact on the employer, simply a violation the rule prohibiting illegal, immoral or indecent conduct.

TIPS:

ONE: Have a policy which is all encompassing and very general such as the employer in the *Kleidosty* case, and not a policy which is limited to "time or place." A rule prohibiting "illegal, immoral or indecent conduct."

TWO: The policy should state clearly what will happen to the employee for violation of the rule, such as "Subject to immediate discharge" or "Disciplinary action up to and including discharge."

THREE: Firmly establish the employee has received the policy. This is best accomplished by having employees sign and date a form which acknowledges they have received the employee handbook and are responsible for the contents. This should be done again whenever the employee handbook is updated.

Message: FW: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:26 PM
 Item ID: 40861690
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:47:39 AM	Reviewed	Koonce, Kerry
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

FW: Participation Tip Sheet attached.

From Wilkinson, Michael [IWD] **Date** Friday, October 11, 2013 12:10 PM
To Wahlert, Teresa [IWD]
Cc Bervid, Joseph [IWD]

[Employer participaiton at fact finding tip.docx](#) (14 Kb HTML) [ATT00001.htm](#) (1 Kb HTML)

I like it a lot!

From: Wahlert, Teresa [IWD]
Sent: Thursday, October 10, 2013 1:29 PM
To: Wilkinson, Michael [IWD]; Bervid, Joseph [IWD]
Subject: Fwd: Participation Tip Sheet attached.

How is this for a tip sheet

- Teresa Wahlert

Begin forwarded message:

From: "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov>
Date: October 9, 2013 at 2:36:45 PM CDT
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: Participation Tip Sheet attached.

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

PARTICIPATION AT FACT FINDING INTERVIEWS**EMPLOYERS' UNEMPLOYMENT TIP SHEET.**

Effective July 1, 2013 an employer may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in the unemployment hearing. See Iowa Code section 96.3(7)b.

Personal participation by an employer representative with firsthand knowledge will almost always suffice to prevent charges to employer's account in the above circumstance. *An employer representative, who has firsthand knowledge about the issue and provides information to the fact-finder, is the best kind of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that if unrefuted would be sufficient to allow employer to win. See Rule 871 IAC 24.10(1).

Mandatory requirements when participating by documents.

- Employer must provide the name and telephone number of a representative with firsthand information who is available to be contacted at the time of the fact finding interview.
- Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

The following are inadequate participation at fact finding?

- Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.
 - Information submitted after fact finding is over is not participation.
-

Message: RE: tip sheet, employer participation at fact finding.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:25 PM
Item ID: 40861679
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: tip sheet, employer participation at fact finding.**

From Wise, Steve [IWD] **Date** Tuesday, October 08, 2013 10:28 AM
To Mormann, Marlon [IWD]
Cc

 [image001.gif](#) (12 Kb HTML)

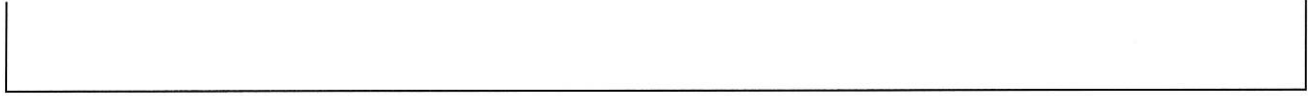
Even though Word Spellcheck does not recognize it, unrefuted is unhyphenated.
<http://www.merriam-webster.com/dictionary/unrefuted>

Last word at the end participaiton is misspelled.

From: Mormann, Marlon [IWD]
Sent: Tuesday, October 08, 2013 9:44 AM
To: Wise, Steve [IWD]; Benson, Joni [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]
Subject: tip sheet, employer participation at fact finding.

Thanks to all who chipped in to help. Here is the final draft. I will give you till noon to tear it to pieces...

Marlon Mormann, Administrative Law Judge
515-265-3512



Message: RE: tip sheet, employer participation at fact finding.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:25 PM
Item ID: 40861681
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: tip sheet, employer participation at fact finding.

From Wise, Steve [IWD] **Date** Tuesday, October 08, 2013 10:30 AM
To Mormann, Marlon [IWD]
Cc

 [image001.gif](#) (12 Kb HTML)

One other thing. You have first-hand and firsthand. I would go with firsthand
<http://www.merriam-webster.com/dictionary/firsthand>

From: Mormann, Marlon [IWD]
Sent: Tuesday, October 08, 2013 10:28 AM
To: Wise, Steve [IWD]
Subject: RE: tip sheet, employer participation at fact finding.

excellent

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Wise, Steve [IWD]
Sent: Tuesday, October 08, 2013 10:28 AM
To: Mormann, Marlon [IWD]
Subject: RE: tip sheet, employer participation at fact finding.

Even though Word Spellcheck does not recognize it, unrefuted is unhyphenated.

<http://www.merriam-webster.com/dictionary/unrefuted>

Last word at the end participaiton is misspelled.

From: Mormann, Marlon [IWD]

Sent: Tuesday, October 08, 2013 9:44 AM

To: Wise, Steve [IWD]; Benson, Joni [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]

Subject: tip sheet, employer participation at fact finding.

Thanks to all who chipped in to help. Here is the final draft. I will give you till noon to tear it to pieces...

Marlon Mormann, Administrative Law Judge
515-265-3512

Message: Out of Office: Tip Sheet for off duty conduct

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:28 PM
Item ID: 40861768
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Out of Office: Tip Sheet for off duty conduct**

From Wise, Steve [IWD] **Date** Saturday, November 09, 2013 2:02 PM
To Hendricksmeier, Bonny [IWD]
Cc

I am out of the office today, November 8. I am available by cell phone in an emergency at 515-473-2533.

Message: FW: Participation Tip Sheet attached.

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:26 PM
 Item ID: 40861690
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **FW: Participation Tip Sheet attached.**

From Wilkinson, Michael [IWD] **Date** Friday, October 11, 2013 12:10 PM
To Wahlert, Teresa [IWD]
Cc Bervid, Joseph [IWD]

 [Employer participaiton at fact finding tip.docx](#) (14 Kb HTML)  [ATT00001.htm](#) (1 Kb HTML)

I like it a lot!

From: Wahlert, Teresa [IWD]
Sent: Thursday, October 10, 2013 1:29 PM
To: Wilkinson, Michael [IWD]; Bervid, Joseph [IWD]
Subject: Fwd: Participation Tip Sheet attached.

How is this for a tip sheet

- Teresa Wahlert

Begin forwarded message:

From: "Mormann, Marlon [IWD]" <Marlon.Mormann@iwd.iowa.gov>
Date: October 9, 2013 at 2:36:45 PM CDT
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: Participation Tip Sheet attached.

Here is the final draft for your approval. What next?

Marlon Mormann, Administrative Law Judge
515-265-3512

PARTICIPATION AT FACT FINDING INTERVIEWS**EMPLOYERS' UNEMPLOYMENT TIP SHEET.**

Effective July 1, 2013 an employer may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in the unemployment hearing. See Iowa Code section 96.3(7)b.

Personal participation by an employer representative with firsthand knowledge will almost always suffice to prevent charges to employer's account in the above circumstance. *An employer representative, who has firsthand knowledge about the issue and provides information to the fact-finder, is the best kind of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that if unrefuted would be sufficient to allow employer to win. See Rule 871 IAC 24.10(1).

Mandatory requirements when participating by documents.

- Employer must provide the name and telephone number of a representative with firsthand information who is available to be contacted at the time of the fact finding interview.
- Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

The following are inadequate participation at fact finding?

- Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.
 - Information submitted after fact finding is over is not participation.
-

Des Moines, Iowa 50319
Phone: (515) 281-8119
joseph.walsh@iwd.iowa.gov

Message: RE: list of ALJs to not be present tomorrow**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:00 PM
 Item ID: 40860978
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: list of ALJs to not be present tomorrow

From Lewis, Devon [IWD] **Date** Thursday, June 06, 2013 11:55 AM
To Hillary, Teresa [IWD]
Cc

No kidding! You saw my note to him about waiving scheduled annual leave.

From: Hillary, Teresa [IWD]
Sent: Thursday, June 06, 2013 11:54 AM
To: Lewis, Devon [IWD]
Subject: FW: list of ALJs to not be present tomorrow

I do not understand why Joe would not just say to the alj's hey, this is important, SHOW UP. My forward below.

From: Hillary, Teresa [IWD]
Sent: Thursday, June 06, 2013 11:50 AM
To: Wahlert, Teresa [IWD]
Subject: FW: list of ALJs to not be present tomorrow

As of my sending of this e-mail only Deb W. has previously asked for time off on Friday. Friday afternoons are not scheduled for ALJ'S to give them time to come to the office to drop-off, pick-up files. The set of ALJ's who usually miss meetings, CLE seminars, etc will be the same ones who will probably miss tomorrow's meeting. If an ALJ has not asked for time off prior to the announcement of the staff meeting, why would he grant it now?

From: Walsh, Joseph [IWD]
Sent: Thursday, June 06, 2013 11:05 AM
To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny

[IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]

Subject: list of ALJs to not be present tomorrow

Will each ALJ who cannot be in tomorrow (due to vacation, medical, etc.) please remind me privately with an IM.

Joseph L. Walsh

Chief Administrative Law Judge
Unemployment Insurance Appeals
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: (515) 281-8119
joseph.walsh@iwd.iowa.gov

Message: RE: list of ALJs to not be present tomorrow**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:00 PM
 Item ID: 40860979
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: list of ALJs to not be present tomorrow**

From Lewis, Devon [IWD] **Date** Thursday, June 06, 2013 11:56 AM
To Hillary, Teresa [IWD]
Cc

I had annual scheduled off all day tomorrow. Not just Deb.

From: Hillary, Teresa [IWD]
Sent: Thursday, June 06, 2013 11:54 AM
To: Lewis, Devon [IWD]
Subject: FW: list of ALJs to not be present tomorrow

I do not understand why Joe would not just say to the alj's hey, this is important, SHOW UP. My forward below.

From: Hillary, Teresa [IWD]
Sent: Thursday, June 06, 2013 11:50 AM
To: Wahlert, Teresa [IWD]
Subject: FW: list of ALJs to not be present tomorrow

As of my sending of this e-mail only Deb W. has previously asked for time off on Friday. Friday afternoons are not scheduled for ALJ'S to give them time to come to the office to drop-off, pick-up files. The set of ALJ's who usually miss meetings, CLE seminars, etc will be the same ones who will probably miss tomorrow's meeting. If an ALJ has not asked for time off prior to the announcement of the staff meeting, why would he grant it now?

From: Walsh, Joseph [IWD]
Sent: Thursday, June 06, 2013 11:05 AM
To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeyer, Bonny

[IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]

Subject: list of ALJs to not be present tomorrow

Will each ALJ who cannot be in tomorrow (due to vacation, medical, etc.) please remind me privately with an IM.

Joseph L. Walsh

Chief Administrative Law Judge
Unemployment Insurance Appeals
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: (515) 281-8119
joseph.walsh@iwd.iowa.gov

Message: RE: Julie Elder

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:00 PM
Item ID: 40860985
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Julie Elder**

From Lewis, Devon [IWD] **Date** Thursday, June 06, 2013 3:23 PM
To Hillary, Teresa [IWD]
Cc

 [image002.gif](#) (5 Kb HTML)

JE's afraid to show up. JB didn't tell you not to send to TW and is definitely telling you she's stressed ... Did you assure her that you believe her that JE did not ask for the leave?

From: Hillary, Teresa [IWD]
Sent: Thursday, June 06, 2013 2:40 PM
To: Lewis, Devon [IWD]
Subject: FW: Julie Elder

This is typical Julie behavior. Julie had no leave on the calendar. She is a mess and Joe just will not discipline her. Grrrrr It is killing the clerical staff morale and just makes day to day life in the office miserable.

From: Benson, Joni [IWD]
Sent: Thursday, June 06, 2013 2:36 PM
To: Hillary, Teresa [IWD]
Subject: FW: Julie Elder

Don't respond to this to Joe or Julie. This is just discouraging. I want to see the email where she told me about the appointment ... I have absolutely no recollection of any conversation with Julie on this.

The load on my shoulders is getting pretty heavy.

From: Benson, Joni [IWD]
Sent: Thursday, June 06, 2013 2:33 PM
To: Walsh, Joseph [IWD]
Subject: FW: Julie Elder

Additional information Julie just IM'd Sandy and told her that she told me. No she did not. Frustrating, Frustrating, Frustrating. Why would I have scheduled her?

From: Benson, Joni [IWD]
Sent: Thursday, June 06, 2013 2:23 PM
To: Walsh, Joseph [IWD]
Subject: Julie Elder

This is a breakdown in the system.

Sandy received a call for Julie's 2PM hearing from the claimant. The claimant had not called in her number yet. Sandy has been trying to reach Julie with no luck.

She just went down to Marty (2:20 PM) and he told her that Julie told him she had a Dr. appointment this afternoon and she called the EMP, but not the CL because we did not have a phone number.

This is information that all the clerks, including me, should have been given. Calls rotate to a different person, so what were the chances that Marty would have been the one to get the call ... 1 in 5 I guess.

Anyway, I will call the claimant.

Joni K. Benson

Iowa Workforce Development - UI Appeals
Ph: 515-281-8484 FAX: 515-242-5144
email: joni.benson@iwd.iowa.gov



Please consider the environment before printing this e-mail.

Message: RE: Tomorrow's Meeting Part II PLEASE WEIGH IN**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:00 PM
 Item ID: 40860986
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: Tomorrow's Meeting Part II PLEASE WEIGH IN

From	Lewis, Devon [IWD]	Date
		Thursday, June 06, 2013 3:29 PM
To	Stephenson, Randall [IWD]; Walsh, Joseph [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]	
Cc	Wilkinson, Michael [IWD]	

Randy,
 We have not reached those issues yet since we are still dealing with PT quits and the disparity between how Claims and Appeals interpret "short-term, full-time employment." That is close to resolution and will be a topic tomorrow, which is why Joe sent out that info to review.

The issues you mention are still pending. Please be patient and we will get to them. I am keeping a notebook of issues ALJs send to me about claims concerns. I found one in my mailbox yesterday and will add that. Thanks for sending me documented issues. That helps.
 Thanks,
Devon

From: Stephenson, Randall [IWD]
Sent: Thursday, June 06, 2013 2:31 PM

To: Walsh, Joseph [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Cc: Wilkinson, Michael [IWD]
Subject: RE: Tomorrow's Meeting Part II PLEASE WEIGH IN

I prefer notifying the designated FF supervisor if there appears to be a repetitious error with a particular deputy. I am disappointed the March 21 meeting with Wilkinson and his group failed to resolve some simplistic problems. 1) The timeliness of protest decision still refers to the notice of claim mailing date as the effective date of the claim that triggers the ten-day protest period. 2) Decisions that list no employer account number are a "red flag" as to whether the correct ER is identified, whether claimant ever worked for the employer, etc. 3) Failure to understand the concept of supplemental employment and DQ'ing an otherwise eligible claimant as it relates to a voluntary quit without good cause part-time employment. See 871 IAC 23.43(4)b. I also want to contact the supervisor if someone complains about rude treatment or being cut-off when trying to present information.

From: Walsh, Joseph [IWD]
Sent: Thursday, June 06, 2013 9:43 AM
To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Cc: Wilkinson, Michael [IWD]
Subject: Tomorrow's Meeting Part II PLEASE WEIGH IN

In advance of tomorrow's meeting, I would also like to generate a little discussion about fact-finders. Claims has sent me a copy of each fact-finder's name by their number. My question to you is, if I give it to you, what are you going to do with it? Do you plan to call fact-finders who screw up? Do you plan to train fact-finders in an unorganized fashion? Are there any circumstances where you would EVER call a fact-finder for information on a case before you had made a decision (either on or off the record)? I was asked at yesterday's meeting why I had not forwarded this information on to the Judges. After I left the meeting I thought, "do they even want it and if so, what the heck for?"

To be clear, we are going to start "tracking" poor fact-finding decisions in the future (both those who are just wrong and training issues). This will be on the agenda. Of course, we can already do this by number. **I would like everyone to weigh in today about if you want legal names of fact-finders and if so what you want it for.**

Joseph L. Walsh

Chief Administrative Law Judge
Unemployment Insurance Appeals
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: (515) 281-8119
joseph.walsh@iwd.iowa.gov



Message: RE: State Comparison of fact-findings....**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:00 PM
 Item ID: 40860988
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: State Comparison of fact-findings....

From Lewis, Devon [IWD]

Date
 Thursday,
 June 06, 2013
 5:14 PM

To Wise, Steve [IWD]; Walsh, Joseph [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeyer, Bonny [IWD]; Hillary, Teresa [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]

Cc

Good info to have, Steve; thanks. Per Snyder, the agency has been having parties waive in-person FF interviews for some years. I wonder if that could be extended to waiving a tele FF in favor of written (or electronic) statements with the opportunity for phone rebuttal.

Technology has changed dramatically in the intervening years it seems like it would be much more efficient in multiple ways for all parties.

From: Wise, Steve [IWD]

Sent: Thursday, June 06, 2013 5:05 PM

To: Walsh, Joseph [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeyer, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]

Subject: RE: State Comparison of fact-findings....

If you read through the information on South Dakota, you'd get the idea that they conduct fact-

finding interviews just like Iowa. That is not really the case because in SD, when claimants apply for benefits they are required to provide a short statement about the reasons for the separation, not just checking whether they were laid off, quit, or were discharged. If there is no dispute on the basic facts between what the claimant said when the claimant applied for unemployment and the protest, e.g. the claimant left work to go to school or was discharged for inability to perform the job, and lots of other cases, there is no phone interview, the decision is issued based on the written submission of the parties. Phone interviews are reserved for cases where the facts are disputed. The reason for the difference is the Snyder consent judgment that our Agency is subject to.

From: Wise, Steve [IWD]

Sent: Thursday, June 06, 2013 4:32 PM

To: Walsh, Joseph [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]

Subject: RE: State Comparison of fact-findings....

Here is the document in PDF format

From: Walsh, Joseph [IWD]

Sent: Thursday, June 06, 2013 3:39 PM

To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]

Subject: FW: State Comparison of fact-findings....

Our Claims Appeals Committee is working on reviewing the way fact-findings are conducted. This is some information compiled by Claims about how fact-findings are conducted in other states. Please review and provide any input you may have.

Joseph L. Walsh

Chief Administrative Law Judge
Unemployment Insurance Appeals
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: (515) 281-8119
joseph.walsh@iwd.iowa.gov

From: Goode, JoAnn [IWD]

Sent: Thursday, June 06, 2013 8:26 AM

To: Wilkinson, Michael [IWD]; Walsh, Joseph [IWD]

Subject: State Comparison of fact-findings....

Message: Additons to the Get Appeal Caught up plan.

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:08 PM
Item ID: 40861239
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

Additons to the Get Appeal Caught up plan.

From Hillary, Teresa [IWD] **Date** Monday, July 29, 2013 4:56 PM
To Wahlert, Teresa [IWD]
Cc

I want to try and get more cases out the door more quickly by changing how we handle one party cases. I would like the ALJs who are working in the office during the week, to each take some of the single party cases and cold call the claimant's (they are all claimant cases) ask them to waive ten days' notice of the hearing and conduct the hearing right then and there. This will allow us to move those out well within 30 days, improving our numbers and will leave open spots for two party cases that just cannot be effectively cold called. Those cases that they cannot get a cold hearing done on will remain with them. That way there is no incentive to just shuffle them back into the mix to be assigned. Those cases will be their responsibility.

The ALJs will not like this. Currently the "work in the office" schedule excludes weeks with writing days, and any type of holiday or meeting. Some of the ALJs want to take vacation day during their weeks in the office. I want to stop that as a regular practice. I do understand that they all need vacation, but single days so they can avoid the office does not help us get more cases out the door. I want to back fill those weeks and bring them into the office. For the last two years, the ALJs have not been required to work in the office during the months of January, February and March. I want to stop that and every single week have ALJs here to work single party cases, and help with questions from the staff and public.

I also have an issue with an ALJ who just went home on Monday b/c his computer would not work in the office at 1000 E Grand but would at home???? He told no one before he left. (Randy Stephenson) I am going to talk to Jon Nelson about the issue and will then bring you the details so you can decide, what, if anything to do.

All this is part of me trying to write the two year plan for Mike W. that the DOL wants to fix our deficiencies in appeals. Part of it will be moving to the electronic case file, but I think we need these changes too. I am looking for any feedback (good or bad) you have on not only the plan, but how to best present it to the ALJs.

As of this morning, July 29 Lynette Donner is finally caught up after more than 1.5 yrs of being behind. All of Julie's cases have been reassigned and the two ALJ's (Susan and Beth) who are taking the half-heard ones not done one, should have them completed by end of August. James Timberland is still behind and is finishing his two week vacation this week. I am going to have a 'conversation' with him when he returns. I want every single old case to be decided by end of August 2013. We should gulp our poison instead of just sipping it every month.

Thanks much,

Teresa K. Hillary
Iowa Workforce Development
1000 E Grand Avenue
Des Moines IA 50319

Phone: 515.725.2683
FAX: 515.242.5144

Message: FW: Finding of Amount Overpaid RE: PROCEDURES FOR HANDLING § 96.3-7-b CASES

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:36 PM
 Item ID: 40861836
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: Finding of Amount Overpaid RE: PROCEDURES FOR HANDLING § 96.3-7-b CASES

From Lewis, Devon [IWD] **Date** Saturday, March 29, 2014 1:53 PM
To Koonce, Kerry [IWD]
Cc

From: Lewis, Devon [IWD]
Sent: Thursday, September 26, 2013 3:44 PM
To: Mormann, Marlon [IWD]; Wise, Steve [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]
Cc: Shroyer, Paula [IWD]; Scott, Cheryl [IWD]
Subject: RE: Finding of Amount Overpaid RE: PROCEDURES FOR HANDLING § 96.3-7-b CASES

And then there's this:

26.17(4) A presiding officer's decision allowing benefits shall result in the prompt payment of all benefits due. An appeal shall not stay the payment of benefits. **A presiding officer's decision reversing an allowance of benefits shall include a statement of overpayment of benefits erroneously paid.**

From: Lewis, Devon [IWD]
Sent: Thursday, September 26, 2013 3:17 PM
To: Mormann, Marlon [IWD]; Wise, Steve [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Nice, Terence [IWD];

Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]

Cc: Shroyer, Paula [IWD]; Scott, Cheryll [IWD]

Subject: RE: Finding of Amount Overpaid RE: PROCEDURES FOR HANDLING § 96.3-7-b CASES

I don't know that there was a "deal" one way or the other. I admit I have not been calculating overpayments for a while but I think it's a good idea to go back to doing it where we can. It gives the parties some idea of the amount of benefits at issue and helps remind me to lock the claim. It also gets testimony on the record about the receipt of benefits. If a finding of benefit payment and/or conclusion of overpayment of benefits is made in the decision, that should be supported in the record with inquiry and testimony.

From: Mormann, Marlon [IWD]

Sent: Thursday, September 26, 2013 2:06 PM

To: Wise, Steve [IWD]; Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]

Cc: Shroyer, Paula [IWD]; Scott, Cheryll [IWD]

Subject: Finding of Amount Overpaid RE: PROCEDURES FOR HANDLING § 96.3-7-b CASES

OK, Steve, I read this carefully. I guess I thought we had a deal on these overpayments and would never enter an amount overpaid. Are you sure we want to calculate the overpayment. I quote you below.

So now in cases where I am not remanding for a determination on employer participation, **I'm not remanding for determination of the amount of the overpayment** either. I doing what I used to do and **making a finding on the amount overpaid** and a conclusion that the claimant was overpaid that amount.

Marlon Mormann, Administrative Law Judge
515-265-3512

From: Wise, Steve [IWD]

Sent: Thursday, September 26, 2013 11:24 AM

To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]

Cc: Shroyer, Paula [IWD]; Scott, Cheryll [IWD]

Subject: RE: PROCEDURES FOR HANDLING § 96.3-7-b CASES

Corrected the participation v. nonparticipation mix up.

From: Wise, Steve [IWD]

Sent: Thursday, September 26, 2013 11:14 AM

To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hendricksmeier, Bonny [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Seeck, Vicki [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]

Cc: Shroyer, Paula [IWD]; Scott, Cheryll [IWD]

Subject: PROCEDURES FOR HANDLING § 96.3-7-b CASES

I've got some questions on PROCEDURES FOR HANDLING § 96.3-7-b cases, so here is the guidance I would give you at this point.

Remember if the record is unclear about whether the employer did or did not participate, you remand using reference 41B.

REFERENCE CODE 41B

Statute Paraphrased with remand language

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The matter of deciding the amount of the overpayment and whether the amount overpaid should be recovered from the claimant and charged to the employer under Iowa Code § 96.3-7-b is remanded to the Agency.

If the case involves a base-period employer, the issue is listed on the hearing notice, the claimant actually was overpaid benefits, and you have a basis for making the participation decision, you decide it. I've come up with two reference codes 41C-1 and 41C-2 that could be used depending on the outcome. I have not formally given these to word processing yet, so for now if you like them, just cut and paste. If everyone agrees with the proposed language for REFERENCE CODE 41C-1 (non-participation) and REFERENCE CODE 41C-2 (participation), I can instruct Paula and Cheryll to add them to the list.

REFERENCE CODE 41C-1 (non-participation)

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the

employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid benefits.

Because the claimant did not receive benefits due to fraud or willful misrepresentation and employer failed to participate in the finding interview, the claimant is not required to repay the overpayment and the employer remains subject to charge for the overpaid benefits.

REFERENCE CODE 41C-2 (participation).

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid benefits.

Because the employer participated in the fact-finding interview, the claimant is required to repay the overpayment and the employer will not be charged for benefits paid.

Finally, in term of remanding for the amount of the overpayment, before 96.3-7 was amended several year ago, we never remanded for the amount of the overpayment. We just started doing that after the amendment because were remanding anyway. I normally make a finding about the amount of benefits a claimant received following a disqualifying separation. "The claimant received \$xxx in benefits after the separation from employment."

Back before we started remanding on the participation issue, I always made a conclusion that that the claimant was overpaid the amount of benefits I found that they received. I put that in the decision paragraph too. "The claimant was overpaid \$xxx in benefits.

So now in cases where I am not remanding for a determination on employer participation, **I'm not remanding** for determination of the amount of the overpayment either. I doing what I used to do and making a finding on the amount overpaid and a conclusion that the claimant was overpaid that amount.

Message: FW: A-C Meeting notes Dec 13, 2013**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:58 PM
 Item ID: 40862469
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

FW: A-C Meeting notes Dec 13, 2013

From Lewis, Devon [IWD] **Date** Monday, March 24, 2014 5:40 PM
To Koonce, Kerry [IWD]
Cc Hillary, Teresa [IWD]

[Paid Time Off Amendment & Impact Statement.doc](#) (52 Kb HTML)

From: Wise, Steve [IWD]
Sent: Tuesday, December 17, 2013 8:08 AM
To: Lewis, Devon [IWD]; Scheetz, Beth [IWD]; Hendricksmeier, Bonny [IWD]; Wise, Debra [IWD]; Timberland, James [IWD]; Elder, Julie [IWD]; Donner, Lynette [IWD]; Mormann, Marlon [IWD]; Stephenson, Randall [IWD]; Ackerman, Susan [IWD]; Nice, Terence [IWD]; Hillary, Teresa [IWD]; Seeck, Vicki [IWD]
Cc: Wahlert, Teresa [IWD]; Wilkinson, Michael [IWD]; Eklund, David [IWD]; West, Ryan [IWD]; Olivencia, Nicholas [IWD]; Bervid, Joseph [IWD]
Subject: RE: A-C Meeting notes Dec 13, 2013

I have attached the amendment to 871—24.16 that would clarify that vacation pay includes paid time off and annual leave along with the impact statement. I will be consulting with Nick on submitted the rule change. The rule change is also set forth below. Please let me know if you have any questions.

871 IAC 24.16 shall be amended as follows:

24.16(1) If the employer properly notifies the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, a sum equal to the wages of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation period until the amount of the vacation pay is exhausted. For the purposes of this rule, rule 24.13, and rule 24.17, the term vacation pay shall include paid time off and annual leave payments.

From: Lewis, Devon [IWD]
Sent: Monday, December 16, 2013 8:49 PM
To: Scheetz, Beth [IWD]; Hendricksmeier, Bonny [IWD]; Wise, Debra [IWD]; Lewis, Devon [IWD]; Timberland, James [IWD]; Elder, Julie [IWD]; Donner, Lynette [IWD]; Mormann, Marlon [IWD]; Stephenson, Randall [IWD]; Wise, Steve [IWD]; Ackerman, Susan [IWD]; Nice, Terence [IWD]; Hillary, Teresa [IWD]; Seeck, Vicki [IWD]
Cc: Wahlert, Teresa [IWD]; Wilkinson, Michael [IWD]; Eklund, David [IWD]; West, Ryan [IWD]; Olivencia, Nicholas [IWD]
Subject: A-C Meeting notes Dec 13, 2013

As always, please submit comments and suggestions about the topics discussed, future agenda topics and proposed topics. Your input is valued. DML

Appeals-Claims Meeting
 December 13, 2013, 8:30 a.m. Stanley Room
 Director Wahlert, Mike Wilkinson, Ryan West, Dave Eklund, Dévon Lewis, Teresa Hillary, Steve Wise, Nick Olivencia

John Deere - address of record error will be corrected.

PTO - Nick and Steve will work on the rule change justification and final language. Until the rule actually changes, the ALJs will continue to treat PTO as they have in the past, as non-deductible since it is not addressed as vacation pay in the admin rule. After the rule change, PTO and annual leave will be included as deductible vacation pay.

Notice of Claim potential E liability amount - Questions arose about whether the information is necessary on the form. The entire form is slated for redesign, including reference to PTO in the vacation pay info area.

Electronic documents as exhibits - Ryan and Dave had a question about how to store and transfer electronic documents submitted in FFs. The FF will make a clear notation on the SIR that there was an electronic submission so the party can be requested to resubmit the information if they want the FF record used in the appeal process or if needed for a DOR review or otherwise. Dévon had a hearing within a week where the surveillance video CD broke in the mail so accepted an electronic copy instead of rescheduling the hearing. Steve suggested ALJs make an Outlook folder for electronic exhibit retention so that if the decision is appealed, a designated clerk can make a CD.

ANDS decisions - Ryan and Dave submitted a packet of information about ANDS decisions with statistics for discussion about elimination of some that are obsolete, duplicative, confusing or rarely used. I will forward an electronic copy of that to ALJs. The long term goal is to develop a decision tree as used by a couple of other states (Minnesota and Utah - no surprise).

Work search warning change? - Deb had heard in an electronic claims meeting that there may be a change to work search warnings so Dévon asked Ryan, Dave and Mike about it. The gist was that with electronic filing of work search history, anticipated to begin summer 2014, that the numbers may change, but it would not be eliminated. *Brumley v. Iowa Dep't of Job Serv.*, 292 N.W.2d 126 (Iowa 1980), requires a warning notice be given to a teacher to expand her work search to a different field of work before benefits could be terminated. That application appears to go beyond the work search warning we generally see for a more simple failure to make at least two contacts per week. There was discussion about whether a work search warning should be appealable since it does not deny benefits. The Appeals perspective is that it is appealable since the warning may have been issued in error due to a mistaken button push on the voice response system, and a second such issue would result in denial of benefits for that week. Claims argued at that point there would be a fact-finding interview to gather pertinent information before benefits would be denied for the week. There was further discussion about whether a fact-finding interview might be necessary at the point when the information is available as claimants electronically submit detailed information beginning in summer 2014. *Snyder*, which was pre-electronic era, does not contemplate this scenario. To be continued.

Topics not reached due to time limitations but remaining on the agenda for future meetings:

PT Q - regular or other base period employers, no rule limitation to other PT wages, and question of whether a person with only PT wages in the base period is considered fully or partially unemployed.

OP participation – example given to Ryan, but no further discussion about no FF documentation of rebuttal call to E
OP participation – witness available with direct knowledge (not E third party rep)
Medical quit v. discharge – internal and external consistency issues for Claims and Appeals
Temp employment agencies, subsection j; spot jobs, specific time
SI referral to internship refusal as A&A and/or work search issue
Ask claims reps to show their work and math on overpayments, offsets, EUC, etc.

Next meeting December 20.
DML

871 IAC 24.16 Amendment to deduct paid time off

871 IAC 24.16 shall be amended as follows:

871—24.16 Vacation pay.

24.16(1) If the employer properly notifies the department within ten days after the notification of the filing of the claim that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, a sum equal to the wages of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation period until the amount of the vacation pay is exhausted. For the purposes of this rule, rule 24.13, and rule 24.17, the term vacation pay shall include paid time off and annual leave payments.

Paid Time Off Amendment – Impact Statement

* Summary of rule / rule changes:

This amendment clarifies that paid time off and annual leave are included in the term vacation pay and are likewise deductible from unemployment insurance benefits.

* Reason for the rule / rule changes:

Currently the rule in 871 IAC 24.16(1) specifies that vacation pay is deductible from unemployment insurance benefits if an employer designates the period of time to which the vacation pay applies with 10 days of receiving the notice of the claimant. Many employers have established paid time off benefits under which employees accrue paid time off that can be taken for personal reasons instead of a "vacation pay" benefit. The employer policies normally provide that accrued paid time off may be paid out at the time of a separation from employment just as vacation pay is. The rule is currently unclear as to whether the term vacation pay includes paid time off. This is because 871 IAC 24.13(4) provides that payments for unused sick leave are not deductible from unemployment insurance benefits and employees can typically use paid time off for time off for personal reasons including illness.

* Effect of rule adoption / change:

After the rule change, the rule will clearly state that the term vacation pay includes payments made to an employee separated from employment for accrued paid time off. Since the rule is being amended, annual leave, another popular term for vacation pay is being added to the rule as well.

* Is the change mandated by State or Federal Law?

No

* Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person's benefit or detriment?

Parties to unemployment insurance decisions will be affected. Currently, there is some uncertainty among employees and employer as to the deductibility of accrued paid time off. The rule change will clarify this. Like vacation pay, paid time off and annual leave are wage substitution payments being paid out by employer to claimants. To the extent that claimants are currently receiving unemployment insurance benefits for a time period to which paid time off is attributable, the rule change will cause a reduction in their benefits until the paid time off has been exhausted. Employers will be benefited by not be charged for benefits paid during time period to which paid time off is attributable. Employers often report paid time off as vacation pay currently so the effect on claimants will be lessened. Consistently in treatment of this benefit will be beneficial to both sides.

* What are the potential benefits of this rule?

The benefits to the employer have been covered in the previous paragraph. The benefits to the unemployment insurance system will be consistent treatment of this form of payment and certainty to the parties.

* What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule?

The rule change would not increase costs to regulated community or the State of Iowa as a whole.

* Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply?

No other agencies regulate this area.

* What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

This does not involve any additional regulation. It is a clarifying amendment for a current rule.

* Does this rule contain a waiver provision? If not, why?

These rules, to the extent legally applicable, may be covered by the agency's waiver rules, 871 IAC Ch. 41, Request for Waiver or Variance of Administrative Rule

*** Likely areas of public comment:**

Advocates for claimants will likely comment that paid time off should not be deducted from unemployment insurance benefits. Employer groups will likely comment favorable about the clarification provided by the rules.

Message: FW: Tip Sheet for off duty conduct

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:58 PM
 Item ID: 40862465
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

FW: Tip Sheet for off duty conduct

From Lewis, Devon [IWD] **Date** Monday, March 24, 2014 3:51 PM
To Koonce, Kerry [IWD]
Cc Hillary, Teresa [IWD]

My response to BH's request for input on the tip sheet in the news – she referred without citation, to Cook, but not to Ross (a case favorable to the E) or Fairfield Toyota (a case favorable to the C). Both contain relevant information for both parties. BTW this style of writing and speaking is usual for her ("ordered" ...)

From: Lewis, Devon [IWD]
Sent: Sunday, November 10, 2013 3:48 PM
To: Hendricksmeier, Bonny [IWD]
Subject: RE: Tip Sheet for off duty conduct

[Check out these from my start on the desk manual for parallel reasoning.](#)

The refusal of a prison guard to answer questions on his private drug use constitutes job misconduct since the prison's rule was appropriate for such an institution. *Ross v. Iowa State Penitentiary*, 376 N.W.2d 642 (Iowa 1985).

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. *Cook v. Iowa Dep't of Job Serv.*, 299 N.W.2d 698 (Iowa 1980).

Court of Appeals held it not misconduct when claimant, whose job required driving, lost insurability when he went into ditch to avoid hitting deer. Evidence showed no willful violation after he was placed on notice that his driving was a problem. *Fairfield Toyota, Inc. v. Bruegge*, 449 N.W.2d 395 (Iowa Ct. App. 1989).

From: Hendricksmeier, Bonny [IWD]
Sent: Saturday, November 09, 2013 2:02 PM
To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Subject: Tip Sheet for off duty conduct

The director has ordered me to do a tip sheet for employers about employees discharged for off duty conduct. I submitted the attached but she feels there needs to be more. I'm not sure more what.

Please give me your input in case I have missed something. I can only find Kleidosty as a case defining the parameters of employer policy for discharge for off duty conduct that is not somehow work related as in Cook.

Message: Re: Fwd: tip sheet**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:28 PM
 Item ID: 40861783
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Re: Fwd: tip sheet**

From: Wilkinson, Michael [IWD] **Date:** Wednesday, November 20, 2013 7:31 AM
To: Wahlert, Teresa [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Cc:

Not yet. I can edit today.

From: Wahlert, Teresa [IWD]
Sent: Wednesday, November 20, 2013 02:29 AM
To: Wilkinson, Michael [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Subject: Fwd: tip sheet

Have you all had input to this?

- Teresa Wahlert

Begin forwarded message:

From: "Hendricksmeier, Bonny [IWD]" <Bonny.Hendricksmeier@iwd.iowa.gov>
Date: November 15, 2013 at 7:00:42 AM CST
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: tip sheet

Message: FW: tip sheet

Case Information:


Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:28 PM
 Item ID: 40861784
 Policy Action: Not Specified

Mark History:



Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **FW: tip sheet**

From Wilkinson, Michael [IWD] **Date** Wednesday, November 20, 2013 10:54 AM
To Wahlert, Teresa [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Cc

 [tipsheet.doc](#) (32 Kb HTML)  [ATT00001.htm](#) (1 Kb HTML)

All three of us have concerns. We are working on it.

From: Wahlert, Teresa [IWD]
Sent: Wednesday, November 20, 2013 2:29 AM
To: Wilkinson, Michael [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Subject: Fwd: tip sheet

Have you all had input to this?

- Teresa Wahlert

Begin forwarded message:

From: "Hendricksmeier, Bonny [IWD]" <Bonny.Hendricksmeier@iwd.iowa.gov>
Date: November 15, 2013 at 7:00:42 AM CST
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: tip sheet

Off Duty Conduct

Off duty conduct must be "work related" if it is to be grounds for discharge and disqualification for misconduct. That is, it must have a direct, negative effect on the employer. *Diggs v. Employment Appeal Board*, 478 N.W.2d 432 (Iowa App. 1991).

In order for an employer to show that its employee's off-duty activities rise to the level of misconduct in connection with the employment, the employer must show by a preponderance of the evidence:

[T]hat the employee's conduct (1) had some nexus with the work; (2) resulted in some harm to the employer's interest, and (3) was in fact conduct which was (a) violative of some code of behavior impliedly contracted between employer and employee, and (b) done with intent or knowledge that the employer's interest would suffer.

Dray v. Director, 930 S.W.2d 390 (Ark. App 1996); *In re Kotrba*, 418 N.W.2d 313 (SD 1988), quoting *Nelson v. Department of Employment Security*, 655 P.2d 242 (WA 1982); 76 Am. Jur. 2d, Unemployment Compensation §§77-78.

A driver who loses their license for off duty drunk driving or other traffic violations, has created a direct negative effect on the employer. Also, too many traffic violations can cause an employer's insurance carrier to refuse to cover the driver, also a direct negative effect.

The same is true for any loss of license or certification which an employee must have in order to perform the required work duties.

Recently "Facebook" issues have resulted in disqualification. Negative comments made on social media about the employer have a tangible negative effect. The same is true of negative comments about co-workers which result in a hostile work environment and bullying.

Disqualification for off-duty conduct which does not have a direct negative effect is guided by the decision in *Kleidosty v. Employment Appeal Board*, 482 N.W.2d 416 (Iowa 1992). In that case the claimant was disqualified from unemployment benefits as a result of her being convicted of selling cocaine off duty at her home. That case rested on the employer's policy specifically prohibiting any "illegal, immoral or indecent conduct" on or off the premises and whether or not on company time.

The Supreme Court emphasized this specific rule as the reason for the disqualification. The rule was broad, general and all encompassing. The claimant was disqualified for violating that rule, not because of selling the cocaine per se.

Kleidosty did not require a showing of adverse impact on the employer, simply a violation the rule prohibiting illegal, immoral or indecent conduct.

TIPS:

ONE: Have a policy which is all encompassing and very general such as the employer in the *Kleidosty* case, and not a policy which is limited to "time or place." A rule prohibiting "illegal, immoral or indecent conduct."

TWO: The policy should state clearly what will happen to the employee for violation of the rule, such as "Subject to immediate discharge" or "Disciplinary action up to and including discharge."

THREE: Firmly establish the employee has received the policy. This is best accomplished by having employees sign and date a form which acknowledges they have received the employee handbook and are responsible for the contents. This should be done again whenever the employee handbook is updated.

Message: RE: Tip Sheet

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:27 PM
Item ID: 40861744
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Tip Sheet**

From Lewis, Devon [IWD] **Date** Tuesday, November 05, 2013 11:40 AM
To Hendricksmeier, Bonny [IWD]; Wise, Steve [IWD]
Cc

 [Off-duty Conduct Tip Sheet.doc](#) (32 Kb HTML)

From previous experience I expect she is going to want it explained in simpler terms. I did not change any content but made a couple of editorial changes. Accept or reject as you wish.
Devon

From: Hendricksmeier, Bonny [IWD]
Sent: Tuesday, November 05, 2013 11:24 AM
To: Lewis, Devon [IWD]; Wise, Steve [IWD]
Subject: Tip Sheet

Off Duty Conduct

Kleidosty v. Emp't Appeal Bd., 482 N.W.2d 416 (Iowa 1992) disqualified the claimant from unemployment benefits as a result of her being convicted of selling cocaine off duty at her home. That case rested on the employer's policy specifically prohibiting any "illegal, immoral or indecent conduct" on or off the premises.

The Supreme Court emphasized this specific rule as the reason for the disqualification. The rule was broad, general and all encompassing.

It was distinguished from rules specifically prohibiting illegal conduct on company time or premises or at events in which the employer was a sponsor or participant. In such situations the claimant would be acting as a representative of the employer before clients or customers or acting directly under the auspices of the employer.

Kleidosty did not require a showing of adverse impact on the employer, simply a violation the rule prohibiting illegal, immoral or indecent conduct.

Rules that are less general require a showing of specific negative impact on the employer for off duty conduct.

TIPS:

ONE: Have a policy which is all encompassing and very general such as the employer in *Kleidosty*, and "not limited to time or place."

TWO: State the consequences for violation of the rule.

THREE: Clearly establish the employees have received the policy.

Message: FW: Tip Sheet

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:27 PM
Item ID: 40861746
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Tip Sheet**

From Lewis, Devon [IWD] **Date** Tuesday, November 05, 2013 11:40 AM
To Hillary, Teresa [IWD]
Cc

 [Off-duty Conduct Tip Sheet.doc](#) (32 Kb HTML)

Not sure why you weren't in on this e-mail chain.

From: Lewis, Devon [IWD]
Sent: Tuesday, November 05, 2013 11:40 AM
To: Hendricksmeier, Bonny [IWD]; Wise, Steve [IWD]
Subject: RE: Tip Sheet

From previous experience I expect she is going to want it explained in simpler terms. I did not change any content but made a couple of editorial changes. Accept or reject as you wish.

Devon

From: Hendricksmeier, Bonny [IWD]
Sent: Tuesday, November 05, 2013 11:24 AM
To: Lewis, Devon [IWD]; Wise, Steve [IWD]
Subject: Tip Sheet

Off Duty Conduct

Kleidosty v. Emp't Appeal Bd., 482 N.W.2d 416 (Iowa 1992) disqualified the claimant from unemployment benefits as a result of her being convicted of selling cocaine off duty at her home. That case rested on the employer's policy specifically prohibiting any "illegal, immoral or indecent conduct" on or off the premises.

The Supreme Court emphasized this specific rule as the reason for the disqualification. The rule was broad, general and all encompassing.

It was distinguished from rules specifically prohibiting illegal conduct on company time or premises or at events in which the employer was a sponsor or participant. In such situations the claimant would be acting as a representative of the employer before clients or customers or acting directly under the auspices of the employer.

Kleidosty did not require a showing of adverse impact on the employer, simply a violation the rule prohibiting illegal, immoral or indecent conduct.

Rules that are less general require a showing of specific negative impact on the employer for off duty conduct.

TIPS:

ONE: Have a policy which is all encompassing and very general such as the employer in *Kleidosty*, and "not limited to time or place."

TWO: State the consequences for violation of the rule.

THREE: Clearly establish the employees have received the policy.

Message: FW: tip sheet

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:27 PM
Item ID: 40861745
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: tip sheet**

From Lewis, Devon [IWD] **Date** Tuesday, November 05, 2013 11:41 AM
To Hillary, Teresa [IWD]
Cc

From: Hendricksmeier, Bonny [IWD]
Sent: Tuesday, November 05, 2013 11:23 AM
To: Wise, Steve [IWD]; Lewis, Devon [IWD]
Subject: tip sheet

Per the director's instructions I have roughed out a "tip sheet" for employers regarding off duty conduct.

Please give me your input and any suggestions. \

Thank you.

Message: RE: Tip Sheet**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:27 PM
 Item ID: 40861748
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: Tip Sheet

From Lewis, Devon [IWD] **Date** Tuesday, November 05, 2013
 12:06 PM
To Hendricksmeier, Bonny
 [IWD]
Cc

 [Employer participaiton at fact finding tip.doc](#) (30 Kb HTML)  [Tip Sheet - Absenteeism.doc](#) (32 Kb HTML)

You might be more specific about an acknowledgement signature form. Teresa helped me simplify the one I did and told me to think like I'm conversationally explaining it to a person who has no training or knowledge of the subject. It's good that you put info about being more general in the policy rules they make so they don't limit themselves. I've attached a couple of other tip sheets for your reference. Marlon did the participation tip sheet and I did the absenteeism one with Vicki. Hope this helps. Doncha love those Clark articles that never seem to get into the detail or catch the points we make in our decisions?

From: Hendricksmeier, Bonny [IWD]
Sent: Tuesday, November 05, 2013 11:47 AM
To: Lewis, Devon [IWD]
Subject: RE: Tip Sheet

Thank you for your input, I took your suggestions. Other than format, is there anything else you feel the director would want included?

From: Lewis, Devon [IWD]
Sent: Tuesday, November 05, 2013 11:40 AM
To: Hendricksmeier, Bonny [IWD]; Wise, Steve [IWD]
Subject: RE: Tip Sheet

From previous experience I expect she is going to want it explained in simpler terms. I did not change any content but made a couple of editorial changes. Accept or reject as you wish.

Devon

From: Hendricksmeier, Bonny [IWD]
Sent: Tuesday, November 05, 2013 11:24 AM
To: Lewis, Devon [IWD]; Wise, Steve [IWD]
Subject: Tip Sheet

EMPLOYER PARTICIPATION AT UNEMPLOYMENT FACT-FINDING INTERVIEWS

Effective July 1, 2013, subsection b of Iowa Code 96.3(7) was enacted and provides that an employer may face charges to its account for failure to participate at a fact-finding interview, even if the employer prevails on appeal in the unemployment hearing.

Personal participation by an employer representative with first-hand knowledge of the reasons for the separation will almost always suffice to prevent charges to the employer's account in that circumstance. *An employer representative who has first-hand knowledge about the issue and provides information to the fact-finder is the most effective form of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that, if not refuted, would be sufficient to allow the employer to win.

Mandatory requirements when participating through documents:

- Employer must provide the name and telephone number of an employee representative with first-hand information who is available to be contacted at the time of the fact finding interview.
- Employer should provide detailed written, signed and dated statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge, the statement must include circumstances of all absences relating to the discharge with details about why the absences were considered unexcused. (See tip sheet about absenteeism for further detail.)

What is not considered adequate participation at a fact-finding interview?

- Written or oral statements of general conclusions without supporting detailed factual information are not considered participation.

- Information submitted after the fact-finding is not participation.
-

- [\[ABSENTEEISM AND MISCONDUCT\]](#)

IOWA UNEMPLOYMENT INSURANCE LAW

ABSENTEEISM AND MISCONDUCT

The employer has the burden to prove misconduct in order to deny unemployment insurance benefits. Absenteeism that is both unexcused *and* excessive is a form of misconduct. Absenteeism includes tardiness and leaving early from scheduled work hours and extending scheduled breaks. An employer is entitled to expect its employees to report to work as scheduled or to be notified in a timely manner as to when and why the employee is unable to report to work.

Absenteeism Policy

It is helpful for an employer to have a policy or work rules about attendance to give to employees. Get a signed receipt or acknowledgement for the policy. Include information about reporting an absence. Tell the employee *to whom they must report* the absence (a supervisor, receptionist, or coworker); *how they should report* the absence (direct conversation, voice mail message, e-mail, or text message); and *when they must report* (a minimum number of minutes before the shift start time, no later than the shift start, or within a certain time after the shift start time). Absences must be properly reported in order to be excused because of the reason for the absence. A fact-finder or administrative law judge (ALJ) may disregard unreasonable policies or work rules.

Excused and Unexcused Absences

Absences related to personal responsibility such as transportation, lack of childcare, and oversleeping are not excused. Failure to find a shift replacement worker does not necessarily make the absence unexcused. Properly reported absences due to illness or injury are excused, regardless of a no-fault or point attendance policy. If there is a pattern of absences or multiple day absences related to illness or injury, an employer may request medical documentation, such as an excuse and release to work. A good faith inability to find childcare for a sick child or family emergency may be excused. A third unexcused absence within a year after a warning will usually be considered

excessive. Absences more than one year prior to the separation date may be too old to be considered in the excessive absenteeism analysis. *The last absence must be for an unexcused reason in order to deny benefits. A final excused absence, even with previous multiple unexcused absences, will result in benefit allowance.*

Attendance Records and Warnings

Deciding if unexcused absenteeism is also excessive requires review of past absenteeism and warnings. Written records of attendance violations and warnings may be used in a fact-finding interview or appeal hearing to help prove misconduct. Keep track of the date of the absence, appropriate time records for tardiness or leaving early, and the reason for the absence. If an employee violates the attendance policy more than once or twice, consider giving an initial verbal, but documented, warning. Then graduate to a written warning with clearly stated consequences for any further violations, including possible suspension or termination from employment. Sign and date the warning on the day it is given. Have the employee date and sign for receipt of the warning and allow a space for employee comments, if any. They do not have to agree with the warning, but should acknowledge receipt. Give a copy of signed warnings to the employee so they have specific notice that their attendance must improve in order to keep the job. Warnings about other issues, such as job performance, will not count as a warning towards a discharge for absenteeism, and vice versa. Follow the policy or work rules and progressive discipline the same for each employee.

Final Straw

Employers must take prompt action when an employee is discharged after a final instance of absenteeism. The Iowa Court of Appeals has suggested that an employee should not be allowed to continue working for more than ten work days after the last absence or act of misconduct, or the final incident or absence will be stale, the discharge will not be for a "current act" of misconduct, and benefits will be allowed.

No-call/No-show Absences as Quitting

If a worker *fails to report for work or notify the employer of absences for three consecutive workdays* in violation of a *specific employer policy*, the employee will be considered to have *voluntarily quit* the employment without good cause attributable to the employer and benefits will be denied.

Message: RE: Tip Sheet for off duty conduct**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:28 PM
 Item ID: 40861774
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Tip Sheet for off duty conduct**

From Lewis, Devon [IWD] **Date** Sunday, November 10, 2013 3:48 PM
To Hendricksmeier, Bonny [IWD]
Cc

[Check out these from my start on the desk manual for parallel reasoning.](#)

The refusal of a prison guard to answer questions on his private drug use constitutes job misconduct since the prison's rule was appropriate for such an institution. *Ross v. Iowa State Penitentiary*, 376 N.W.2d 642 (Iowa 1985).

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. *Cook v. Iowa Dep't of Job Serv.*, 299 N.W.2d 698 (Iowa 1980).

Court of Appeals held it not misconduct when claimant, whose job required driving, lost insurability when he went into ditch to avoid hitting deer. Evidence showed no willful violation after he was placed on notice that his driving was a problem. *Fairfield Toyota, Inc. v. Bruegge*, 449 N.W.2d 395 (Iowa Ct. App. 1989).

From: Hendricksmeier, Bonny [IWD]
Sent: Saturday, November 09, 2013 2:02 PM
To: Ackerman, Susan [IWD]; Donner, Lynette [IWD]; Elder, Julie [IWD]; Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Mormann, Marlon [IWD]; Nice, Terence [IWD]; Scheetz, Beth [IWD]; Stephenson, Randall [IWD]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]
Subject: Tip Sheet for off duty conduct

The director has ordered me to do a tip sheet for employers about employees discharged for off duty conduct. I submitted the attached but she feels there needs to be more. I'm not sure more what.

Please give me your input in case I have missed something. I can only find Kleidosty as a case defining

the parameters of employer policy for discharge for off duty conduct that is not somehow work related as in Cook.

Message: Small Print Job

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:27 PM
Item ID: 40861729
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Small Print Job**

From Wilkinson, Michael [IWD] **Date** Wednesday, October 30, 2013 10:27 AM
To Goode, JoAnn [IWD]
Cc

 [UI Tax and Benefits Presentation - ECI 10-13.pptm](#) (1140 Kb HTML)

I need 20 copies of the attached presentation:
Color
Two slides per page
Front and Back
Stapled top left

Need them by 8:30 Thursday morning

Thank you!

◦ **Unemployment Insurance Law and Policy**

◦ **For:**

◦ **Employers Council of Iowa, Southern Iowa**

Michael Wilkinson

Division Administrator

Michael.wilkinson@iwd.iowa.gov

(515) 281-4986

1

1 / 43 [Prev](#) [Next](#)

Report

Sightings

To

Her Mother

Public

ServiceAlert!!!

2

- **Law and Policy Changes**
- **Basics of Unemployment Insurance**
- **Mike's Top 10**
- **Reasons for Disqualification**
- **Case Studies**
- **Calculating the Cost**

Agenda

- **15% Penalty for Fraud Overpayments**

- **Primary Source – Unreported wages**
- **Interface National Directory of New Hires**
- **Wage Cross Match**
- **Administrative Penalties and Prosecutions**

Federal Conformity – Law Change

3

4 / 43 [Prev](#) [Next](#)

- **Lack of participation creates
overpayments**
- **Required participation at first level fact**

finding

◦ **No relief of charges if reversed upon**

appeal

◦ **Statement of Charges**

◦ **See attached Tip Sheet**

Federal Conformity – Fact Finding

Participation

4

5 / 43 [Prev](#) [Next](#)

◦ **Initial claims completed on line**

- . **Electronic Response by business**
- . **Electronic correspondence**
- o **Weekly Continued Claims on-line**
 - . **NDNH cross match**
 - . **Job contact verification**

On-line Reporting for Claims

5

6 / 43 [Prev](#) [Next](#)

- o **Effective September 20, 2013**
 - . **Quarterly Contribution and Payroll**

Reports must be submitted electronically

▪ New employer registrations must be

submitted online at www.MylowaUI.org

Administrative Rule Change

6

7 / 43 [Prev](#) [Next](#)

- Unemployment insurance is paid entirely by employers who are covered by the Iowa Employment Security Law. Unemployment insurance is not welfare and is not based on need. It provides temporary benefits for people who are:
 - Unemployed or working reduced hours through no fault of their own
 - Able to work and available for work
 - Actively looking for work (unless waived)

What is unemployment insurance?

The intent is to pay benefits to eligible claimants during periods of unemployment when suitable work is not available. Claimants must meet certain eligibility requirements.

7

8 / 43 [Prev](#) [Next](#)

- **If a claim is determined monetarily eligible, a Notice of Claim is sent to the individual's most recent employer and to all employers in the individual's base period. All Base Period Employers may be charged.**
- **Upon receiving the Notice of Claim**
 - **Employer may protest payment of benefits**
 - **Indicate if an individual has or will be receiving**
 - **Vacation, Severance, Dismissal pay, Separation allowance, Holiday pay**
- **Response to the Notice of Claim -postmarked no later than 10 days from the date the notice was mailed.**

Notice to employers

8

9 / 43 [Prev](#) [Next](#)

- **Base Period: First four of the last five completed calendar quarters**
- **Lag quarter – quarter immediately preceding the quarter in**

which the claim is filed.

- The wages in the Lag Quarter are not used in calculating the benefit amount
- May be used on a subsequent claim.
- Example: Claim filed October 31, 2013
 - Based Period is July 1, 2012 through June 30, 2013
 - Lag quarter wages are 7/1/13 through separation.
 - Claim filed after January 1, 2015 would not be liable.

What is a Base Period

9

10 / 43 [Prev](#) [Next](#)

Base
period
chart

11 / 43 [Prev](#) [Next](#)

- If disqualified – must earn 10 times their weekly benefit amount to re-qualify
 - Charges are transferred to the “Balance Account”; no employer charged
- If allowed – Employer account is charged up to 1/3 of their base

period wages not to exceed 26 weeks of the Weekly Benefit.

- Exception: business closing – calculated at $\frac{1}{2}$
- Subsequent Benefit Year charges (Lag wages)

Who gets Charged?

10

12 / 43 [Prev](#) [Next](#)

10 Tips to consider

Preparation starts at hire

11

13 / 43 [Prev](#) [Next](#)

- Attendance – reporting absence
- Dress Code – Safety Equipment
- Harassment

- **Tolerance for “foul” language**
- **Use of Alcohol**
- **Use of Sick leave/FMLA**
- **PTO, Vacation**
- **Social Media, Internet use**
- **General behavior on and off work**
- 1. Signed written policies and procedures**

12

14 / 43 [Prev](#) [Next](#)

-
- **Thoroughly investigate – secure witness**

statements

- **Timeliness depends on the nature of the complaint or infraction**
- **Provide employee opportunity to respond to the complaint**
- **Document responses**

2. Investigate and act quickly

13

15 / 43 [Prev](#) [Next](#)

- **Verbal warnings that are documented**

- **Written Warnings**

- Reason, infraction, remedy, consequence

- Signed and or witnessed

- Follow through in a timely manner

- **WARNINGS ARE IMPORTANT BUT THE**

FINAL “ACT” DETERMINES DISCHARGE

FOR MISCONDUCT

3. Provide Written Warnings

14



- **Inconsistency/exceptions in how policies or rules are applied can weaken a case**
- **Example: Rule says employee is to call in their absence, but instead sends an e-mail.**

4. Follow your policies and be consistent

15

17 / 43 [Prev](#) [Next](#)

- **Supervisor notes, dates & observations, conversations with employee**
- **Warnings and reprimands**

- **Disciplinary action**
- **Sign-off on policies and policy changes**
- **E-mail vs. signed**

5. Document, Document, Document

16

18 / 43 [Prev](#) [Next](#)

- **Initial Fact Finding and appeal hearing**
- **First hand testimony best**
- **Written Statements and documentation of warnings, termination letter, other**

relevant documents

- Provide rebuttal
- Make notes during Fact Finding and hearing and offer rebuttal.

6. Participate

17

19 / 43 [Prev](#) [Next](#)

- ...may be admissible, but can be easily challenged
- Preponderance of evidence

- . Hearsay may provide credibility to an witness statement
- . Hearsay is “second hand” information
- . “While I did not see him do it, data suggests that he is the only one with access”.

7. Hearsay....

18

20 / 43 [Prev](#) [Next](#)

- ...if you disagree with the decision.

- . Fact Finding – Gathering of facts and initial determination**

- . Appeal – Sworn testimony in front of the Administrative law Judge**

- . Employment Appeal Board – Review of the file**

- . District Court**

8. Appeal

19

- **Evaluate probationary employees early**
- **1/3 of all wages could be charged to the UI Tax account.**

9. Evaluate Performance early

20

22 / 43 [Prev](#) [Next](#)

- **UI law can be complex in certain cases;**

Call an expert

- **Michael Wilkinson, (515) 281-4986**

- **David Eklund (515) 281-5792**

. Ryan West (515) 725-3732

10. Ask questions

21

23 / 43 [Prev](#) [Next](#)

- **A claimant may be disqualified from receiving benefits for any of the following reasons:**
 - **Voluntarily quitting a job without cause attributable to the employer**
 - **Refusal of suitable work or recall by a former employer**
 - **Discharge for misconduct in connection with the work**
 - **Discharge for gross misconduct**
 - **Failure to adequately search for a job**
 - **Physically unable to work**

Unemployment insurance adjudication

22

24 / 43 [Prev](#) [Next](#)

- **Misconduct in connection with their employment;**
- **Current Act and final incident is misconduct**

- **Deliberate acts or omissions; repeated acts of carelessness or negligence**
 - **Poor performance?**
- **Employer has the Burden of Proof**

Discharge

23

25 / 43 [Prev](#) [Next](#)

- **Excessive and unexcused**
 - **Matters of “personal responsibility”**
- **Absent due to illness and other excused reasons**
- **Timely notification**
- **Employer policies for reporting absence**
- **Misconduct if Multiple unexcused and final incident due to illness?**
- **Misconduct if multiple absences due to illness and final is unexcused?**

Attendance

24

26 / 43 [Prev](#) [Next](#)

-
- **Insubordination – failure to follow reasonable instructions**
 - Refusing OT with only 5 minutes notice
 - **Profanity; Offensive or threatening language**
 - Written Policy? Workplace practice?
 - **Fighting – On premises or off premises**
 - Evidence of negative impact at the work place
 - **Off-duty Conduct – is it work related?**
 - **Carelessness/negligence**

Discharge issues

Carelessness – violation of policy after being warned.

25

27 / 43 [Prev](#) [Next](#)

- **Claimant has the burden of proof**
- **Establish separation was for good cause attributable to the employer.**

- **Prior notice if for medical reasons:**
 - . **Notify employer of condition**
 - . **Could quit if not corrected**
 - . **Allow opportunity to correct**

Quit

26

28 / 43 [Prev](#) [Next](#)

- **Change in “contract” of hire**
- **Unsafe working conditions**
- **Illegal or intolerable working conditions**

- **Forced Resignation**

- **Sexual Harassment**

- **Work related illness or injury**

- . **Left on the advise of doctor**

- . **Notified employer immediately**

- . **Attempt to return upon recovery**

Quit with Cause

27

29 / 43 [Prev](#) [Next](#)

- **Lack of transportation**

- **Absence without contact for 3 consecutive days in violation of company policy.**
- **Lack of childcare***
- **After being reprimanded**
- **Inability to work with supervisors or co-workers.**
- **Accept other employment**

Quit without cause

28

Employer

- **Sleeping at his desk: Supervisor woke him**
- **No prior warning or No explanation for sleeping or medication issues**
- **Set watch alarm to wake him**
- **Told supv after the fact that meds knocked him out**
- **Did not participate in FF**

Claimant

- **He was on break**
- **Taking meds for anxiety and dosage changed**
- **Prior warning for going on break w/o telling co-workers**
- **“Employer knew he was medicated”**
- **Asked for FMLA paperwork when walked out.**

Case Studies - #1

Sleeping on the Job

29

Employer

- **Did not participate**

Claimant

- 1st shift employee transferred to 3rd shift
- Single parent – unable to work 3rd shift
- Transferred due to low seniority
- HR said to report for shift or quit
- Supervisor could not guarantee shift would be temp or perm

Case Study #2

Quit, Change in contract of hire

30

32 / 43 [Prev](#) [Next](#)

Employer

- Prior warnings for attendance issues 3 months prior
- Applied progressive discipline
- Final incident – failure to clock out for a W/C appt or clock back in.
- Participated in FF with written statements only

Claimant

- Refuted employer statement by stating he did clock out and

back in.

- **Time card was not presented**
- **Claims he has an excuse from W/C doctor.**

Case Study #3

Failure to follow instructions

31

33 / 43 [Prev](#) [Next](#)

Employer

- **Warned for low productivity 4 mo. Prior to termination**
- **No other warning**
- **3 consecutive days of safety violations**
 - **Forklift seat belt**
 - **Safety shoes**
 - **Bumped other equip with forklift – no damage**
- **Did not participate in FF**

Claimant

- **Refuted each allegation of safety violation**
- **No record of attendance problems**

- No letter of termination
- Some things getting harder to do, due to arthritis

Case Study #4

Safety Violation

32

34 / 43 [Prev](#) [Next](#)

Calculating the cost of a claim

33

35 / 43 [Prev](#) [Next](#)

- Two factors involved in calculation
 - Five-year average annual benefit payment
 - Five-year annual taxable payroll
- Rate calculation date is July 1st
- Resulting percentage (%) of taxable payroll is compared to every other employer's benefit ratio
- If annual taxable payroll expands and benefits are constant or decrease, the rate tends to decline

Employer's Benefit Ratio

34

36 / 43 [Prev](#) [Next](#)

35

37 / 43 [Prev](#) [Next](#)

Rate Table

Benefit Ratio Rank	Approximate Cumulative Taxable Payroll Limit	Contribution Rates Table							
		1	2	3	4	5	6	7	8
1	4.8%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2	9.5%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
3	14.3%	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
4	19.0%	0.4	0.3	0.3	0.2	0.1	0.1	0.1	0.1
5	23.8%	0.6	0.5	0.4	0.3	0.3	0.2	0.1	0.1
6	28.6%	0.9	0.8	0.6	0.5	0.4	0.3	0.2	0.1
7	33.3%	1.2	1.0	0.8	0.6	0.5	0.4	0.3	0.2
8	38.1%	1.5	1.3	1.0	0.8	0.6	0.5	0.3	0.2
9	42.8%	1.9	1.5	1.2	0.9	0.7	0.6	0.4	0.3
10	47.6%	2.1	1.8	1.4	1.1	0.8	0.6	0.5	0.3
11	52.4%	2.5	2.0	1.6	1.3	1.0	0.7	0.5	0.3
12	57.1%	3.0	2.4	1.9	1.5	1.1	0.9	0.6	0.4
13	61.9%	3.6	2.9	2.4	1.8	1.4	1.1	0.8	0.5
14	66.6%	4.4	3.6	2.9	2.2	1.7	1.3	1.0	0.6
15	71.4%	5.3	4.3	3.5	2.7	2.0	1.6	1.1	0.7
16	76.2%	6.3	5.2	4.1	3.2	2.4	1.9	1.4	0.9
17	80.9%	7.0	6.4	5.2	4.0	3.0	2.3	1.7	1.1
18	85.7%	7.5	7.5	7.0	5.4	4.1	3.1	2.3	1.5
19	90.4%	8.0	8.0	8.0	7.3	5.6	4.2	3.1	2.0
20	95.2%	8.5	8.5	8.5	8.0	7.6	5.8	4.3	2.8
21	100.0%	9.0	9.0	9.0	9.0	8.5	8.0	7.5	7.0

36

38 / 43 [Prev](#) [Next](#)

◦ **\$0 Five Year Average Benefit Charges**

\$250,000 Five Year Average Taxable Wages

◦ **$0/250,000 = 0$, this would put the**

employer in Rank 1

◦ **Rate would be 0.000% on all contributions**

◦ **43% of all employers have a zero rate;**

53% with 1% or less

EXAMPLES OF HOW Benefits affect your UI

Account rate

Using this formula, below are some examples of how an increase in benefit charges can significantly affect your tax rate.

- **2000/250,000 = .8 (Benefit Ratio),**
 - **Rank 12 Rate is 1.10%**
 - **One person laid off; Annual Cost = \$2,750**
- **4,000/250,000 = 1.6 (Benefit Ratio)**
 - **Rank 16 Rate is 2.4%**
 - **Two people laid off; Annual Cost = \$6,000**

Calculated rates and costs

38

- **8,000/1,500,000 = .53 Benefit ratio**
 - **Rank 9 Rate is .700%**
 - **Four people laid off; Annual Cost = \$10,500**
- **20,000/1,500,000 = 1.3 Benefit ratio**
 - **Rank 15 Rate is 2.0%**
 - **10 people laid off; Annual Cost = \$30,000**

Calculated rates and costs

39

41 / 43 [Prev](#) [Next](#)

Questions ?

40

42 / 43 [Prev](#) [Next](#)

Michael Wilkinson

Division Administrator, UI Services

515-281-4986

Michael.Wilkinson@lwd.iowa.gov

Thank You

41

43 / 43 [Prev](#) [Next](#)

Message: Printing

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861717
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Printing**

From Wilkinson, Michael [IWD] **Date** Thursday, October 17, 2013 9:18 AM
To Goode, JoAnn [IWD]
Cc

 [UI Law and Policy Update.pptx](#) (174 Kb HTML)  [Employer participaiton at fact finding tip.docx](#) (18 Kb HTML)

JoAnn, could you have 75 copies of each document printed? For the PowerPoint it should be in color, three slides per page, and printed front and back. The Word document is only one page but should be in color. Thank you. I will need them by Noon Friday.

Michael Wilkinson

Iowa Workforce Development

Division Administrator, UI Services

michael.wilkinson@iwd.iowa.gov

(515) 281-4986

UI Law and Policy Updates

1
1

1 / 8 [Prev](#) [Next](#)

Federal Conformity – Law Change

- 15% Penalty for Fraud Overpayments
- Primary Source – Unreported wages
- Interface National Directory of New Hires
- Wage Cross Match
- Administrative Penalties and Prosecutions

2

2 / 8 [Prev](#) [Next](#)

- Lack of participation creates overpayments
- Required participation at first level fact finding

- No relief of charges if reversed upon appeal
- Statement of Charges
- See attached Tip Sheet

3

Federal Conformity – Fact Finding Participation

3 / 8 [Prev](#) [Next](#)

Policy Changes

- Effective September 20, 2013
 - Quarterly Contribution and Payroll Reports must be submitted electronically
 - New employer registrations must be submitted online at www.MylowaUI.org

4

4 / 8 [Prev](#) [Next](#)

Policy Benefits

- Increases accuracy
- Reduces processing cost
- Real-Time account updates
- Immediate account access

Additional Benefits

- Three ways to submit quarterly report
- Calculate taxable wages automatically
- Schedule e-Payments for a later date
- View and print letters and legal documents
- Review payment history and account balance
- Provide authorization to your accountant/third party provider

- Wage Adjustments
- Reactivating accounts
- Inactivating accounts
- Focus group on retention of bank account number and ABA number

MyIowaUI Enhancements

- Initial claims completed on line
 - Electronic Response by business
 - Electronic correspondence
- Weekly Continued Claims on-line
 - NDNH cross match
 - Job contact verification

8

On-line Reporting for Claims

8 / 8 [Prev](#) [Next](#)

PARTICIPATION AT FACT FINDING INTERVIEWS
EMPLOYERS' UNEMPLOYMENT TIP SHEET.

Effective July 1, 2013 an employer may face charges to its account for failure to participate at a fact finding interview even if the employer prevails on appeal in the unemployment hearing. See Iowa Code section 96.3(7)b.

Personal participation by an employer representative with firsthand knowledge will almost always suffice to prevent charges to employer's account in the above circumstance. *An employer representative, who has firsthand knowledge about the issue and provides information to the fact-finder, is the best kind of participation.*

The rule also allows for participation by documentation. The employer must submit detailed factual information that if unrefuted would be sufficient to allow employer to win. See Rule 871 IAC 24.10(1).

Mandatory requirements when participating by documents.

- Employer must provide the name and telephone number of a representative with firsthand information who is available to be contacted at the time of the fact finding interview.
- Employer must provide detailed written statements giving dates and circumstances of the discharge incident or reasons for a quit.
- The specific rule or policy relied upon must be submitted for a discharge case.
- For an absenteeism discharge the statement must include circumstances of all absences relating to the discharge with proof that the absences are unexcused under Iowa law.

The following are inadequate participation at fact finding?

- Written or oral statements or general conclusions without supporting detailed factual information are not considered participation.
 - Information submitted after fact finding is over is not participation.
-

Message: Iowa UI BPC Monitoring

Case Information:


Message Type: Exchange
 Message Direction: External, Outbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:17 PM
 Item ID: 40861559
 Policy Action: Not Specified

Mark History:


Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Iowa UI BPC Monitoring**

From Wilkinson, Michael [IWD] **Date** Thursday, October 10, 2013 4:41 PM
To 'oss.etar5@dol.gov'
Cc Belmonte, Steffanie - ETA; Scott, John - ETA (Scott.John@dol.gov); Eklund, David [IWD]

 [COMPLIANCE FINDINGS 9-13.docx](#) (26 Kb HTML)

Please find attached Iowa's response to the compliance findings from the review of Iowa's Unemployment Insurance Benefit Payment Control operation July 29-31. The Findings and responses have been reviewed and approved by IWD Director Teresa Wahlert and Division Administrator Michael Wilkinson. Please let me know if you have any questions or concerns with the response. Look forward to hearing from you....and having you back on the job!

COMPLIANCE FINDINGS

Finding #1: ETA 9016 Report – Reporting Errors and Validity of Data

(Part II – Detection of Overpayments)

The ETA 9016 Alien Claims Activities Report is designed so ETA and the state can monitor an alien's immigration status that will allow them to determine the alien's eligibility for unemployment compensation. To facilitate the required verification, the Immigration and Naturalization Service (INS), developed the Systematic Alien Verification for Entitlement (SAVE) system. The information provided on the report assesses the magnitude of alien claims and issues affecting eligibility; make decisions as to the appropriateness and value of state use of the SAVE system; and determine whether a state's administrative costs associated with SAVE are reasonable.

The data on the ETA 9016 Reports submitted was incorrect and does not accurately reflect the information obtained from SAVE about an alien's immigration status that will allow the determination of the alien's eligibility for unemployment compensation. The reporting issues identified were:

Line 2, Number of Claimants Whose Alien Status was Verified through the INS Primary System, the state is not verifying every new and additional claims filed during the quarter where the claimant indicated or was otherwise discovered not to be a citizen of the United States through the SAVE system.

Required Action: The state must verify alien status of every new and additional claim through the SAVE system. The state must ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook. The state should also assess whether internal policies or procedures need to be updated, and whether training is needed to ensure this requirement is fulfilled on a consistent basis.

Response: The Unemployment Insurance Service Center (UISC) has identified and trained a workforce advisor to query SAVE, follow-up with the claimant on discrepancies, and disqualify the claimant if warranted. The person was trained in early September and started conducting verification approximately September 18, 2013. Going forward 100% of all new and additional claims will be verified.

Finding #2: Immediate Deposit and Withdrawal Standards

(Part V – Prosecutions)

Claimants prosecuted for UI fraud are ordered to make restitution via wage garnishment facilitated through the 99 county sheriffs' offices. The sheriffs' offices will hold the garnished wages until the full amount requested is recovered or the maximum amount is garnished for the calendar year under Iowa law. The sheriffs' offices then forward the funds to IWD. There is no uniform system by which these 99 county sheriff's offices submit restitution payments to the state; the process varies from county to county. Under this process, the payments are not forwarded to the state in a timely manner. Withholding of moneys destined for the state is contrary to the mandates put forward in the Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards.

The Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards clearly delineates the responsibility of state agencies to deposit moneys designated for the Unemployment Trust Fund (UTF) to be deposited in a timely manner. The UIPL indicates in part..." Section 3304(a)(3), FUTA, requires as a condition of employers in a State receiving credit against the Federal unemployment tax, that:

All money received in the unemployment fund shall...immediately upon such receipt be paid over to the Secretary of Treasury to the credit of the Unemployment Trust Fund established by Section 904 of the Social Security Act.

This "immediate deposit" requirement is also found in Section 303(a)(4), SSA, as a condition for a State receiving administrative grants. The UIPL continues:

When Moneys Become Part of a State's Unemployment Fund. Moneys need not be in any of the three main parts to be in the fund. The exact time moneys become part of the State's unemployment fund is statutorily controlled by the immediate deposit requirement which requires the payment by the State of "all money received in the unemployment fund...immediately upon such receipt" to the Secretary of Treasury to the credit of the UTF.

The Department interprets the phrase "received in the unemployment fund" to mean that any money received for purpose of the trust (i.e., the payment of UC) is "in" the State's unemployment fund at the instant of its receipt by the State or its agent. This interpretation assures that transfers of moneys in a State's possession are not delayed, thereby giving effect to the immediate deposit requirement that all moneys be immediately paid over to the UTF and assuring the beneficiary has forwarded moneys to the trustee for investment.

Required Action: The state must put in place policy and procedures with the county sheriffs' offices to facilitate the return of UI moneys to the UTF.

Response: As a point of clarification, garnishments are not used for prosecutions. Restitution is a condition of the settlement and paid immediately to IWD. Garnishments were used in fraud and non-fraud overpayments that were not subject to prosecution.

As well it should be pointed out that the Sheriff's office is not an agent of IWD. Garnishments are sent through the county clerk of court, who in turn uses the county sheriff to deliver the notice. Garnishments can only be released to IWD through an order of the court.

In early September 2013, IWD made the decisions to temporarily cease garnishments, request the outstanding collections from the respective clerk of court, and balance the debt in preparation for sending a request for recovery through the Treasury Offset Program (TOP). As we are limited in the amount we can recover annually from an individual through garnishments, we will wait to evaluate the efficacy of garnishments following our recovery efforts through TOP and State income tax (I-Tax). There are a small number of counties that will immediately turn over garnishments, however the vast majority retain the garnishment until the order is fulfilled. There is no policy/procedure we can make with the sheriff's office, or individual county courthouses. The funds are released to us only after we file an "Application to Condemn Funds" with the respective court, and that court files an order granting our Application. No policy or procedure with the sheriff's office, nor the individual county courts will alter this. It is required by law, as is what specifically has to be stated in the Application and what notices need to have been given.

Finding #3: ETA 227 Report - Reporting Errors and Validity of Data

(Part VIII – Maintenance and Evaluation of Administration Data)

The ETA 227 Overpayment Detection and Recovery Activities Report is designed so ETA and the state can monitor the integrity of the benefit payment processes in the UI system. The principal detection areas of benefit payment control are shown on the report. Data are provided for the establishment of overpayments, recoveries of overpayments, criminal and civil actions involving overpayments obtained fraudulently, and an aging schedule of outstanding benefit overpayment account. The recorded data is reviewed to assure that the state's system is operating in an efficient and cost effective manner and meets the requirements in accordance with Section 303(a)(6), SSA, requires:

"the making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports"

The data on the ETA 227 Report submitted was incorrect and does not accurately reflect the activities that the state is undertaking to establish and recover overpayments. Because the state has not programmed the updated version of the ETA 227 Report in accordance with UIPL No. 08-12 Consolidation of the Employment and Training Administration (ETA) 9000 and ETA 227 Reports issued on January 11, 2012, the coding issues identified were:

- Section A. Overpayments Established – Causes; Line 112, High Dollar Fraud Overpayments, the line is not populated to report those fraud cases and dollar amounts of overpayments to an individual that exceeds \$5,000 for a single payment or for cumulative payments made during or prior to the reporting quarter.
- Section A. Overpayments Established – Causes; Line 113, High Dollar Non-fraud Overpayments, the line is not populated to report those non-fraud cases and dollar amounts of overpayments to an individual that exceeds \$5,000 for a single payment or for cumulative payments made during or prior to the reporting quarter.
- Section B. Overpayments Established – Methods of Detection; Line 204, State Directory of New Hire (SDNH), the line is not populated with the total cases investigated and established through the use of the SDNH. The SDNH cases are combined with Line 210, National Directory of New Hires.
- Section D. Criminal/Civil Actions; Line 404, Number of Convictions Obtained, in Calendar Year (CY) 2012 the line item indicates 277 convictions obtained, however, in reviewing the number of fraud cases only 13 were referred for prosecution. It was determined during discussions with the state it was a typographical error.
- Section D. Criminal/Civil Actions; Line 405, Number of Cases Referred for Civil Action, in CY 2012 the state decreased their activity and referred one case for civil action when compared to previous years the referral rate was approximately 16-18 cases.
- Section D. Criminal/Civil Actions; Line 406, Number of Civil Actions Obtained, in CY 2012 because the state decreased their activity only one case received civil action.

Required Action: The state must program the updated version of the ETA 227 Report in accordance with UIPL No. 08-12, review the report for accuracy and ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook.

Response: IWD is nearly complete developing the updated version of the ETA 227 report. At the time of the audit the new format was in development and is currently being tested. The third quarter 2013 ETA 227 report will be submitted in the new format by October 31, 2013.

Finding #4: Determination Timeliness

(Part XI – Case Review)

Ten of the 20 overpayment cases reviewed took two to six months to establish an overpayment determination from the receipt of the wage verification from both the employer and the claimant.

Section 303(a)(1), of the Social Security Act (SSA), requires, as a condition for a State to receive administrative grants for the Unemployment Compensation program, that a State law include provision for:

"Such methods of administration ... as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due."

20 CFR 640.1(2) Standard for Benefit Payment Promptness-Unemployment Compensation, "adequate performance is contingent upon the prompt

determination of eligibility by the State as a condition for payment or denial of benefits. Accordingly, implicit in prompt performance with respect to benefit payment is the corresponding need for promptness by the State in making determinations of eligibility.”

In accordance with UIPL No. 11-45, in 1971, the Supreme Court issued its decision in California Department of Human Resource Development v. Java, 402 U.S. 121 (1971), Procedures for Implementing the Java Decision’s Requirements, Attachment to UIPL No. 11-45 Promptness of Determination and Payment.

The state has lost experienced staff through attrition and has been unable to fill vacancies to effectively investigate and make timely determinations on all overpayment cases. When a BPC unit is not properly staffed the impact on program integrity can ultimately affect the state’s performance.

Required Action: The state must take immediate corrective action to address the back log of cases and establish overpayments promptly and prior to a determination of an individual’s right to benefits, such facts pertaining thereto as will be sufficient reasonably to ensure the payment of benefits when due.

Response: IWD is committed to ensuring that all potential overpayments are promptly investigated. On September 13, 2013, a significant reorganization provided an opportunity to reassign more of the NDNH matches and cross-match audits for two weeks or less of earnings to fact finding interviewers. This will provide more time for the Fraud Investigator to address cross match audits with three weeks or more of earnings. As well, IWD Director Teresa Wahlert and the Division Administrator, Michael Wilkinson, have discussed the addition of Fraud Investigators, however this has been delayed in light of the federal shut down and resulting furloughs at IWD. The process will resume following the resolution of the federal budget.

Message: FW: FY2012 Tripartite BTQ Review in San Francisco

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:37 PM
 Item ID: 40860796
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:23:29 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

FW: FY2012 Tripartite BTQ Review in San Francisco

From Wilkinson, Michael [IWD] **Date** Tuesday, June 05, 2012 5:43 PM
To Andre, Michele [IWD]
Cc

[San Francisco Review.doc](#) (149 Kb HTML)

From: Fiore, Lidia - ETA [mailto:fiore.lidia@dol.gov]
Sent: Tuesday, June 05, 2012 4:57 PM
To: Shenk, Jim [IWD]; Prado, Manuel; Carol Robinson; Lepper, Janet; LeAnn Raymond
Cc: Wilkinson, Michael [IWD]; DeMore, Frank; Arwood5@michigan.gov; Backer, Gracia; Sara.Hall-Phillips@jfs.ohio.gov
Subject: FY2012 Tripartite BTQ Review in San Francisco

State BTQ Coordinators,

As you are aware, the BTQ Cross Regional Review will be held in San Francisco the week of August 6, 2012. Attached is detailed information concerning the review. Please share this information with appropriate staff. Also, please submit to me by July 6, 2012, the names, email addresses, and telephone numbers of the staff selected to participate in the review.

Please let me know if you have any questions.

Best regards,

Lidia Fiore
 Unemployment Insurance Program Specialist
 U.S. Department of Labor
 Employment & Training Administration
 Region 5- Chicago
 230 S. Dearborn St., 6th Floor
 Chicago, IL 60604
 312.596.5432
fiore.lidia@dol.gov

<i>U.S. Department of Labor</i>	<i>Employment and Training Administration</i>
	<i>REGION V</i> <i>John C. Kluczynski Building</i> <i>230 South Dearborn Street, 6th Floor</i> <i>Chicago, IL 60604-1505</i> http://www.doleta.gov/regions/reg05

June 5, 2012

TO: REGION V STATE BTQ COORDINATORS:

Iowa: Jim Shenk

Illinois: Manuel Prado

Michigan: Carol Robinson

Missouri: Janet Lepper

Ohio: LeAnn Raymond

SUBJECT: FY 2012 TRIPARTITE BENEFITS TIMELINESS AND QUALITY REVIEW

1. **Purpose.** To announce the San Francisco Cross-Regional 2012 Tripartite Benefits Timeliness and Quality (BTQ) Review for the quarter ending June 30, 2012.

2. **Background.** ET Handbook No. 301 mandates quarterly nonmonetary determinations quality reviews. Annually, the Regional Office participates in one of each State's quarterly nonmonetary review through a multi-State review. This multi-State review allows participants to observe other State Workforce Agencies' (SWAs) UI nonmonetary determination adjudication process, identify best practices, and satisfy review requirements.

The Regional review team, comprised of up to two SWA staff from each State, along with ETA - Regional and National Office staff, will utilize the review methodology prescribed in Employment and Training Administration (ETA) Handbook 301, Fifth Edition. Review participants will analyze nonmonetary determinations for adequacy of fact-finding and rebuttal, application of law and policy, and quality of the written determination. Accordingly, individuals participating in the review must have a thorough knowledge of the nonmonetary determination adjudication process and the Quality Program Initiative. Participants in this review are afforded a unique opportunity to observe other state's unemployment insurance nonmonetary determination, and adjudication process in great detail. This exposure can be a useful experience in staff training and development.

3. **Travel Costs.** Funds will be allocated for all travel for up to two SWA staff from each state in connection with this BTQ review.

4. **Logistics.**

Review Dates: The review will be conducted during the week of August 6, 2012. **The review will start at 11:00 a.m., Monday, August 6, 2012 and conclude at noon on Friday, August 10, 2012.**

Review Location: The review will take place in the Conference Center (basement level) of the San Francisco Federal Building at 90 Seventh Street, Rooms B020 – B040, San Francisco, CA 94103.

Accommodations: Participants are responsible for making their own hotel reservations. The government rate for the San Francisco area is \$155.00 per night, plus 15% tax.

Please check with the hotel about their cancellation policy.

Ground Transportation: Taxi and airport shuttle services are available from Oakland and San Francisco airports. Taxi fees range from \$50 to \$60 one way, depending on the airport. Airport shuttle fees (www.supershuttle.com) range from \$17 to \$25 one way and may require longer travel time than taxi transportation.

5. **Case Submission.** SWAs will select their normal quarterly sample for the quarter ending **June 30, 2012**. An initial review of each sample case must be completed prior to arrival in San Francisco.

Participants should bring ETA Handbook 301, Fifth Edition, two completed copies of the check list (attached to this memorandum), the

randomly selected cases, additional Data Collection Instruments (DCIs) (attached to this memorandum), sample copies of automated correspondence, the computer run used for sample selection, and a copy of your State’s UI laws and policies.

Each case selected for review must be assembled into a case file. The case file, depending on the issue adjudicated, should contain a copy of, but not limited to

- Initial/additional claim, if applicable.
- Separation notice, if applicable.
- The formal written determination.
- Fact finding documentation and other relevant documentation such as a medical certificate, notice of refusal of suitable work or referral to work from either the Employment Service or an employer, pension information, alien verification documentation from INS, etc.
- Printout of claim history records with items highlighted on the printouts that are pertinent to the data collection and quality review.
- Two state agency calendars.
- Bring completed score sheets from the first in-house review, with the DCI initialed by the first reviewer in a separate file.
- The case selection printout used to validate the quality sample and information on the DCI.

States who will be mailing their cases to the review site in advance should use a mail service that includes a tracking number to ensure proper and timely delivery. Please plan to have your cases arrive by **August 3, 2012**. Materials should be sent to the following address:

Marie Brillante

U.S. Department of Labor, ETA
90 Seventh Street, Suite 17300
San Francisco, CA 94103

Please make sure if you are shipping packages that they are labeled properly.

I am also attaching the BTQ Scoring Summary Sheet. At the end of the San Francisco review, I will need the form completed and returned to me.

6. Action. The state BTQ Coordinators are requested to share this information with appropriate staff and to submit the names, email addresses, and telephone numbers of the staff selected to participate in the review to Lidia Fiore on or before **July 6, 2012**.

7. Contact. Please direct questions or comments about the BTQ review to Lidia Fiore, (312)596-5432, fiore.lidia@dol.gov.

Attachment

Check list for BTQ Cross-Regional Tripartite Reviews

Initial/additional claim, if applicable;
Separation notice, if applicable;
The formal written determination;
Fact finding documentation, and other relevant documentation such as doctor’s certificate, notice of refusal of suitable work or referral to work from either the
Employment Service (ES) or an employer, pension information, alien verification documentation from INS, etc.;
First and second score sheets for each case completed with the skeletal fields?
Printout of claim history records, including monetary history with items <u>highlighted</u> on the printouts that are pertinent to the data collection and quality review;
The score sheet from the first review. (First reviewer should initial DCI for use in discussion of the case, if it becomes necessary);
Remove first review score sheets from case file; and keep in separate file.
Bring at least 2 calendars from your agency.
Generic (sample) Copies of automated notices/letters;

Appeal Information that may be referred to on the determination;
Claimant Handbook;
Copy of BRI information;
Additional Score sheets;
Completed attachment #3
Appeal Precedent
State law and written policy
Sample Selection Computer Run

State _____

ELIGIBILITY AND DISQUALIFICATION PROVISIONS

1. When is a written determination to employers required?
2. If the employer response with separation information is not received on time, what affect does this have upon the information?
3. What is the policy regarding use of phone and mail to obtain additional information?
4. If protest is returned by the employer representative (agent) rather than the employer, does this preclude subsequent direct contact with the employer?
5. In separation cases not clearly voluntary leaving or discharge for misconduct, is the moving party concept used?
6. Explain how the reasonable and prudent person standard is used in separation cases, e.g. was it necessary to know if the claimant exhausted all available alternatives prior to quitting.
7. Is the disqualification based on separation from the most recent employment only?
8. If yes, what is considered the most recent employment?
9. Is the disqualification based on separation from all employers within the specified period?
10. Is disqualification based on all employers who would be charged?
11. What is the law or policy covering reporting requirements for claimants?

DISCHARGE FOR MISCONDUCT

1. What is the disqualification period?
2. Is there a more severe disqualification for gross misconduct?

Period of disqualification-

3. What is the policy regarding failure to comply with union requirements?

ABLE AND AVAILABLE

1. What is State law and policy regarding claimants being able and available for work?
2. Does law require actively seeking work?
3. What is law and policy regarding temporary illness or disability?
4. Explain special policy provisions for:
 - a. Physically able? (reduced benefits, majority of claim week)

- b. Mentally able?
- c. Availability in specific geographical areas?
- d. Availability under special conditions?
 - i. Attending school –
 - ii. Death in family
 - iii. Funerals
 - iv. Work search in other areas
 - v. Out of town on visit and seeking work
 - vi. Jury duty
 - vii. Working on on-call basis
 - viii. Fulfilling military obligations (National Guard, Reserves)
- e. Availability when?
 - i. Involuntarily retired -
 - ii. Temporary layoff -
 - iii. Involuntary vacation –
 - iv. Vacation shutdown –

VOLUNTARY QUIT

1. What is your policy on the following voluntary quits?

Marital?

Domestic?

To accompany spouse?

To seek other work?

To accept other work?

To enter armed forces?

To enter self employment?

Mandatory retirement?

Voluntary retirement?

Medical reasons?

To go to school?

2. Do any of the above require payment or denial of benefits under all circumstances, without exception? Indicate which ones.
3. Indicate any other State policies not listed above which also require a specific result, without exception?
4. Is good or just cause related to the work or can good cause be related to personal circumstances?
5. What is policy on recall to regular employer?
6. What is policy on separation during leave of absence?
7. Are disqualifications for:
 - a. Indefinite period (such as period of the employment)?
 - b. Fixed number of weeks?
 - c. Variable number of weeks?
 - d. Benefits reduced?
 - e. Receipt of OASI
 - f. special conditions?
 - i. Shift work –
 - ii. Prisoner in penal institution –
 - iii. On bona fide vacation –
 - iv. Marital obligations-

REFUSAL OF WORK

1. State any criteria used in addition to mandatory Federal standards regarding suitability of work.
 - a. Wages –
 - b. Distance –

- c. Type of work and conditions
- d. Hours –
- e. Offered work previously separated from or refused –

2. Is there any specified point of time during the claim series when the criteria change for any of the above? Explain.
3. Is a job refusal prior to filing a new claim an issue?

Period of disqualification –

4. What is State policy when the reason for refusing also suggests unavailability because of a restriction that substantially reduces claimant’s employability, i.e. wages, travel, hours? Does the State impose a separate disqualification under A&A also?

NONMONETARY DETERMINATIONS QUALITY DATA COLLECTION INSTRUMENT			
1. IDENTIFICATION # 00000 (5-digit sample sequence) (skeleton field)			
2. ISSUE CODE (2-digit code) (skeleton field)			
3. CASE MATERIAL FOUND? (Y/N) (If "N", remaining elements are left blank)			
4. DATE ON DETERMINATION: (mmdyyy) (skeleton field)			
5. CORRECT DATE ON DETERMINATION? (Y/N)			
6. CORRECTED DATE ON DETERMINATION: (mmdyyy)			
7. CORRECT ISSUE CODE? (Y/N) (If "Y", then item 8 is blank)			
8. IF ITEM 7 IS "N", ENTER THE CORRECT CODE FROM BELOW. (If no issue existed, enter "00"; if a nonmonetary redetermination, enter "01")			
SEPARATION	NON-SEPARATIONS		MULTI-CLAIMANT
10 Quit	30 Able/Available	80 School Employee	90 Labor Dispute
20 Discharge (MC)	31 Reporting Requirements	81 Alien	99 Multi-Claimant (Other)
	40 Work Search	82 Athlete	
	50 Disq/Ded. Income	83 Unemployment Status	
	60 Refusal of Work; Failure to Apply/Accept Referral	84 Seasonality	
	70 JS Registration	85 Removal of DQ	
	73 Profiling	86 Fraud Administrative Penalty	
9. INTRASTATE CLAIM? (Y/N)			
10. PROGRAM TYPE: UI UCFE UCX			
11. NONMONETARY DETERMINATION OUTCOME: <u>A</u> LLOWED <u>D</u> ENIED			
12. OUTCOME REPORTED CORRECTLY? (Y/N)			
13. SWA USE ONLY			
14. W/E DATE OF FIRST WEEK AFFECTED BY DETERMINATION: (mmdyyy) (skeleton field)			
15. CORRECT WEEK ENDING DATE? (Y/N)			
16. CORRECTED WEEK ENDING DATE (blank if item 15 is "Y"): (mmdyyy)			
17. ISSUE DETECTION DATE: (mmdyyy)			
18. CORRECT ISSUE DETECTION DATE? (Y/N)			
19. CORRECTED ISSUE DETECTION DATE (blank if item 18 is "Y"): (mmdyyy)			
20. CLAIMANT INFORMATION: <u>A</u> dequate=15, <u>I</u> nadequate=10, <u>N</u> ot Obtained=0			
21. EMPLOYER INFORMATION: <u>A</u> dequate=15, <u>I</u> nadequate=10, <u>N</u> ot Obtained=0, NA(<u>X</u>)=15			
22. INFO/FACTS FROM OTHERS: <u>A</u> dequate=15, <u>I</u> nadequate=10, <u>N</u> ot Obtained=0, NA(<u>X</u>)=15			
23. LAW/POLICY: <u>M</u> eets=45, <u>Q</u> uestionable=30, Does not meet (W)=0			
24. WRITTEN DETERMINATION: <u>A</u> dequate=10, <u>I</u> nadequate=5, <u>W</u> rong (W)=0 (If "W" then #23 cannot be "M")			

COMMENTS**

Claimant Information	Adequate/15	Inadequate/10	Not Obtained/0	Not Applicable/15
----------------------	-------------	---------------	----------------	-------------------

Comments:

Employer Information	Adequate/15	Inadequate/10	Not Obtained/0	Not Applicable/15
----------------------	-------------	---------------	----------------	-------------------

Comments:

Facts From Others	Adequate/15	Inadequate/10	Not Obtained/0	Not Applicable/15
-------------------	-------------	---------------	----------------	-------------------

Comments:

Law & Policy	Meets/45	Questionable/30	Does Not Meet/0
--------------	----------	-----------------	-----------------

Comments:

Written Determination	Adequate/10	Inadequate/5	Wrong/0
-----------------------	-------------	--------------	---------

Comments:

BTQ Scoring Summary		
Review for Quarter Ending: _____		
State: _____		Sample Size _____
	State Review Score <i>(Before BTQ Review)</i>	Cross Regional Review—Final Score <i>(After BTQ Review)</i>
Total Separations Passing		
Total Separations Failing		
Total Invalid Separations		
Incorrect Issue Detection Dates		
SEP Score % <small><i>(total SEPs passing/total SEPs passing and failing)</i></small>		
Case ID	Explanation of Score Change (pass to fail <i>or</i> fail to pass)	
	State Review Score <i>(Before BTQ Review)</i>	Cross Regional Review—Final Score <i>(After BTQ Review)</i>
Total Non-Separations Passing		
Total Non-Separations Failing		
Total Invalid Non-Separations		
Incorrect Issue Detection Dates		
Non SEPS Score % <small><i>(total nonSEPs passing/total nonSEPs passing and failing)</i></small>		

Message: FW: IA FY 2014 SQSP DRAFT Comments**Case Information:**

Message Type: Exchange
 Message Direction: External, Outbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:16 PM
 Item ID: 40861524
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:23:29 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ FW: IA FY 2014 SQSP DRAFT Comments

From Wilkinson, Michael [IWD] **Date** Tuesday, September 03, 2013 1:35 PM
To Belmonte, Steffanie - ETA
Cc

[📎](#) **FY 2014 SQSP Comments.doc** (64 Kb HTML)

Steffanie, I am really struggling with the Program Integrity Section of the comments. First of all, I cannot find the UI Integrity Measure – BYE score of 3.46% anywhere. As well, when I look at the BAM Annual Report data for 2012 by cause, BYE is second and Separation issues are first. The 2012 data is not on the website. I got it from our BAM staff. This plan needs a major overhaul. I will do my best.

From: Belmonte, Steffanie - ETA [mailto:Belmonte.Steffanie@dol.gov]
Sent: Monday, August 26, 2013 11:32 AM
To: Douglas, Jodi [IWD]
Cc: Wilkinson, Michael [IWD]
Subject: IA FY 2014 SQSP DRAFT Comments

We have put together some comments which are in the attached document. The comments provided, like the goals of SQSP, are to develop and implement strategies with continuous improvement. As a reminder, the final FY 2014 SQSP submission is due in the Regional Office by September 6, 2013. A current organizational chart must be submitted along with the transmittal of your completed SQSP. If you have any questions, please do not hesitate to contact me.

Thanks.

Steffanie Belmonte
 U.I. Program Specialist
 U.S. Department of Labor/ETA
 Chicago - Region 5
 (Ph) 312-596-5436 (Fx) 312-596-5401
belmonte.steffanie@dol.gov

U.S. Department of Labor	Employment and Training Administration REGION V <i>John C. Kluczynski Building</i> <i>230 South Dearborn Street, 6th Floor</i> <i>Chicago, IL 60604-1505</i> <i>http://www.doleta.gov/regions/reg05</i>

August 26, 2013

FY 2014 State Quality Service Plan - Iowa**Region V Comments****Narrative**

Overview - Part A: A few of the national priorities were not addressed in the narrative portion of the SQSP. Can the agency provide a brief update on those areas, improper payments, reemployment and worker misclassification? See UIPL 22-13 dated July 2, 2013.

Program Deficiencies – Part D:

It seems there are a number of program deficiencies missing from this section that should be listed.

Bullet No. 1, the agency mentions a separate project that is underway to more quickly identify potential overpayments in the weekly certifications. What is the separate project?

Reporting Deficiencies – Part E: The agency did not provide a narrative for the ar9057 or au9128 as required. Please have the agency provide an explanation as to why these reports were delinquent and what is being done to ensure that these reports will be submitted timely in the future. Please refer to page seven of the FY 2014 SQSP CAP letter issued on July 10, 2013 to the director.

Corrective action plans (CAPS)

General Comment: For those program areas that have a multi-year CAP, the multi-year CAP should provide enough information to explain anticipated progress and results but does not need to provide quarterly targets or milestones.

First Payment Promptness: Much of the summary is verbatim of FY 2013's summary. The summary format should be:

- a. Explain the reason(s) for the deficiency.
- b. A description of the actions/activities which will be undertaken to improve performance.
- c. If a plan was in place the previous fiscal year, an explanation of why the actions contained in that plan were not successful in improving performance, and an explanation of why the actions now specified will be more successful.
- d. A brief description of plans for monitoring and assessing accomplishments of planned actions and for controlling quality after achieving goals.

Based on the agency's quarterly performance levels, are the quarterly performance levels indicated achievable based on the issues identified in the summary?

Non-Monetary Determination Time Lapse:

Correct the Federal Fiscal Year at the top of CAP to – 2014.

Milestone No. 2; task d., which quarter will the policies and procedures be developed for conducting the silent monitoring?

Non-Monetary Determination Quality – Separations:

Correct the Federal Fiscal Year at the top of CAP to – 2014.

Lower Authority Appeals Case Aging-30D:

LAA 30D – 60%:LAA 45D – 80%:

Correct the Federal Fiscal Year at the top of CAP to – 2014 and the multi-year Appeals CAP to – 2015.

IA submitted a multi-year CAP for Case-aging and 30 and 45 day time-lapse. However, the CAP for all three measures show them meeting by the end of FY 2014 so it is not clear why there is a second year?

The summary states that the appeals workload did not decrease with the claims workload (and there is an anticipation of an increase in workload) but does not really address the barriers the agency is facing to meet the current workload requirements – staffing, attendance, training, inefficient processes.....? Has there been any analysis of what the max and minimum workload that should be completed weekly/monthly to address the backlog as well as addressing the potential for increased workload?

The business process analysis is a good start but does the unit do any analysis of reversal rates? Does IA review appeals prior to docketing to determine if a redetermination can be issued? What is the status of the development of the web-based appeal? Are there meetings or discussions between Appeals and Benefits staff to resolve differing legal interpretations? Has there been any analysis of cases over 90 days old? Over 40 days old? In June 2013 approximately 87 cases were over 90 days old. Clearing these old cases can really affect the case-aging measure. (Not all of this may be applicable but should be considered when developing the CAP.)

Milestone 1, task c, – IA is developing recommendations but what about the implementation plan?

Milestone 2, task a, – ETA shows that current caseload for ALJs in IA is 28-32 which is already the upper average for workload. Will there be (or has there already been) any type of analysis of if ALJs can handle an increased workload of hearings and writing quality decisions? In May 2013 according to regional records, IA had 15 ALJs completing 28-32 hearings per week. $15 * 32 * 4.3$ means that at best they should be completing 2064 decisions per month and at worst (with 5 folks out for sick/vacation per week) $10 * 28 * 4.3$ they should be issuing 1204 decisions per month. From January 2012 thru June 2013 IA issued decisions on a monthly average of 1249 – In May and June 2013 over 1300 decisions were issued.

Milestone 2, task b, – will the policy be implemented by the end of quarter ending 12/31? If so, only need a check mark for that quarter.

Milestone 2, task d, – what type of performance stats will also be tracked? Will there be weekly or monthly quality pulls separate from the required quarterly review to identify training needs and skills shortages? Reversal rate analysis?

If it is determined after reviewing the 2014 CAP that this needs to be a multi-year CAP, the 2015 CAP should provide enough information to explain anticipated progress and results but does not need to provide quarterly targets or milestones. It seems the plan is to meet the performance measures by the end of FY 2014 though.

New Employer Status Determination Time Lapse:

Correct the Federal Fiscal Year at the top of CAP to – 2014.

Remove the GPRA criteria from the Measure/Program Area.

The last sentence of the summary beginning with, “Although timeliness of new accounts beyond October 2013 will be timely, the backlog and prior performance will lower the overall measure.” The sentence is unclear. Will this process adversely (lower) affect the measure?

In the milestones, check only the quarter that the task will be completed.

Status Determination – New:

In the milestones, check only the quarter that the task will be completed.

Status Determination – Successor:

In the milestones, check only the quarter that the task will be completed.

Status Determination – Inactivation:

In the milestones, check only the quarter that the task will be completed.

As a milestone, list when the training will be conducted.

Cashiering:

In the milestones, check only the quarter that the task will be completed.

Consider adding controls that will ensure that the new process is delivering the desired effect.

Tax Quality – Collections:

The summary needs to be updated/current. Comments from 2009-2012 should be removed.

In the milestones, check only the quarter that the task will be completed.

Contributory Debits/Billings:

In the milestones, check only the quarter that the task will be completed.

Tax Quality – Reimbursable Billings:

The summary needs to be updated/current. Comments from 2009-2012 should be removed.

In the milestones, check only the quarter that the task will be completed.

Credits/Refunds:

The summary needs to be updated/current. Comments from 2010-2012 should be removed.

In the milestones, check only the quarter that the task will be completed.

Detection of Overpayments

Correct the Federal Fiscal Year at the top of CAP to – 2014 and the multi-year Detection of Overpayment CAP to – 2015.

In the summary, first paragraph with the sentence beginning, "Iowa applied for an SBR in July 2013 and will again in August 2014..." No SBR is offered yet for August 2014. Are the years correct?

Milestones

2. SIDES – Two tasks are identified, please indicate which quarter they will be completed.

3. Automation implementation – three tasks are identified, development is to begin in the 1st quarter but testing of the new application is also beginning in the 1st quarter. Will this be possible given IA's IT challenges? The third task is marked to be completed in all four quarters. Please indicate which quarter the task will be completed.

4. Prosecutions – the milestone was similar to FY 2013, what will the state do differently to meet this milestone? Please indicate which quarter each task will be completed. They are not lined up correctly.

5. Media Exposure – Please indicate which quarter task number 2 will be completed.

6. Deterrence Efforts - Two tasks are identified, please indicate which quarter they will be completed.

UI Integrity Measure – Benefit Year Earnings:

Overall CAP comment; line up the check marks with the task.

The first milestone; task c, please indicate which quarter the task will be completed or is it ongoing.

The second milestone; task d, please indicate which quarter the task will be completed or is it ongoing.

Correct the Federal Fiscal Year on the multi-year Benefit Year Earnings CAP to – 2015.

DATA VALIDATION-Summary Guidance

- a. Explain the reason(s) for the deficiency.
- b. A description of the actions/activities which will be undertaken to improve performance.
- c. If a plan was in place the previous fiscal year, an explanation of why the actions contained in that plan were not successful in improving performance, and an explanation of why the actions now specified will be more successful.
- d. A brief description of plans for monitoring and assessing accomplishments of planned actions and for controlling quality after achieving goals.

Tax DV Populations 2 & 4 CAP:

Correct the Federal Fiscal Year on the CAP to – 2014.

This CAP is the same as last years. The state should provide details as defined above in a., b. and c.

Tax DV Populations 5 CAP: This is a multi-year CAP (FY 2012 and 2014). This CAP must provide detail information as to what was accomplished last year, cause of any delays, etc.

Benefits DV Populations CAP:

Correct the Federal Fiscal Year on the CAP to 2014 and the multi-year Benefits DV CAP to – 2015.

This CAP is the same as last years. The state should provide details as defined above in a., b. and c. If the state has decided to use 6/30/13 as the validation quarter, why aren't any of the populations being submitted until the quarter ending 6/30/14?

Program Integrity Action Plan: Instructions provided in UIPL 22-13, Attachment C

Root Causes: the agency must list the top **three root causes of improper payments** in the state for the most recent IPIA period, however, the agency **must also include the percentage change for each cause compared to the prior year's IPIA rate**. The information can be located at the www.dol.gov website by state. According to the DOL website, Iowa's top three issues are BYE, Separation and Other Issues. The root causes listed in the agency's integrity plan must be corrected.

Example below:

	<u>2012</u>	<u>2011</u>	<u>Change</u>
Benefit Year Earnings	xx%	xx%	+/- xx%
Separation	xx%	xx%	+/- xx%
Other Issues	xx%	xx%	+/- xx%

The agency might want to consider addressing the outcome the Business Process Analysis and possibly include strategies that address improper payments in the program integrity action plan.

The summary should include outreach efforts planned by the agency to inform all UI and workforce staff of the strategic plan to ensure everyone understands the importance of maintaining program integrity. Has the agency conducted outreach efforts to all workforce staff?

Part D. Outcomes from Last Year's Strategies: The agency must include a brief summary of outcomes from last year's strategies, noting whether the strategy implementation was completed, indicating known results, and/or discussing delays or barriers that prevented completion of the strategy implementation. See instructions on page 8.

Strategy No. 1: What resources are being utilized, program staff, IT, etc.?

Strategy No. 5: It appears this strategy is completed. If so, remove from the integrity action plan and incorporate in the summary as an outcome from last year.

Strategies No. 3, 4, and 6: Does the agency have any new actions/activities beyond the 4th quarter 2013? If so, what are the new targets/milestones?

Suggestion, there are several ideas listed in Attachment C that the agency might want to consider for the FY 2014 Integrity Action Plan.

Steffanie Belmonte

belmonte.steffanie@dol.gov

312-596-5436

Message: RE: Proplanner #314263**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:16 PM
 Item ID: 40861533
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

RE: Proplanner #314263

From Wilkinson, Michael [IWD] **Date** Wednesday, September 11, 2013 8:42 PM
To Wahlert, Teresa [IWD]
Cc

Got it. Thank you

From: Wahlert, Teresa [IWD]
Sent: Wednesday, September 11, 2013 5:52 PM
To: Wilkinson, Michael [IWD]
Subject: Fwd: Proplanner #314263

Your people should not be telling customers we are way behind - because we are not.

- Teresa Wahlert

Begin forwarded message:

From: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
 Date: September 11, 2013, 5:50:32 PM CDT
 To: Janet Brimeyer <Janet@klatt-assoc.com>
 Subject: Re: Proplanner #314263

Great high school!!

It is correct that our processes have been out of date and prone to errors for some time. That is why we have invested in mechanization.

As with most newly mechanized projects there are clean-up issues. When we find errors we are correcting them. No - we should not be billing for penalty and interest on errors or on balances people did not know they had. We are waiving those.

However, we are not way behind. I apologize to customers we have inaccurate information on. The errors are caused by everyone - the business, the CPAs, the third party providers, the financial institutions we interface with, the agents, the programmers, and IWD.

We fix them all - sometimes one at a time. If you would send me your issues I would be happy to see that they are all resolved.

- Teresa Wahlert

On Sep 11, 2013, at 3:50 PM, "Janet Brimeyer" <Janet@klatt-assoc.com> wrote:

This is the second employer that has incorrect data on the website that I have checked. Who knows if all of our employers have forwarded us the notices?

This employer had incorrect wage reports for:

4/2010: 2 social security numbers entered incorrectly - caused taxable wages to be overstated

3/2012: 1 social security number entered incorrectly - caused taxable wages to be overstated

2/2013: 1 social security number entered incorrectly - caused taxable wages to be overstated

How can I justify billing my time to find the errors when no notices have been issued and it was not the clients fault that the data was input incorrectly?????

I have called the My Iowa UI online number and have had several clients that I sent POA's for back on 7/25 and 8/2 and they were still not entered. The agent told me that they were entered but whoever entered them did not assign any roles to us an agent so they were not showing on our agent screen.

Why should we have to spend our time checking up on Iowa Workforce? How can you justify billing any clients for penalties or interest if they have not been billed previously when they thought all along they were in compliance - just because your system was not up to date? We have called in the past to check on balances and were told that everything was way behind so we could not have even checked online on our clients even if we had access.

I am hoping you are hearing the same things from other service providers.

If you would like to discuss this further you can call me at 515-232-5642.

Janet Brimeyer

P.S. I am a graduate of Wahlert High School in Dubuque

Message: RE: Proplanner #314263**Case Information:**

Message Type: Exchange
 Message Direction: External, Outbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:17 PM
 Item ID: 40861548
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:24:38 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

RE: Proplanner #314263

From Wilkinson, Michael [IWD] **Date** Friday, September 13, 2013 12:24 PM
To 'Janet Brimeyer'; Wahlert, Teresa [IWD]; Hedrick, Timothy [IWD]
Cc Russell, Joyce [IWD]

Janet, Per the recommendation of the Director, those charges for penalty and interest will be waived. We can either refund the payment or set up a credit. Do you or your client have a preference?

Michael Wilkinson
 Division Administrator, UI Services
 515-281-4986

-----Original Message-----

From: Janet Brimeyer [<mailto:Janet@klatt-assoc.com>]
 Sent: Friday, September 13, 2013 12:12 PM
 To: Wahlert, Teresa [IWD]; Hedrick, Timothy [IWD]
 Cc: Russell, Joyce [IWD]; Wilkinson, Michael [IWD]
 Subject: RE: Proplanner #314263

After receiving the information from Tim yesterday my client authorized me to go online and make a payment for \$166.37 - it was scheduled to come out today.

Janet

-----Original Message-----

From: Wahlert, Teresa [IWD] [<mailto:Teresa.Wahlert@iwd.iowa.gov>]
 Sent: Friday, September 13, 2013 9:06 AM
 To: Hedrick, Timothy [IWD]
 Cc: Janet Brimeyer; Russell, Joyce [IWD]; Wilkinson, Michael [IWD]
 Subject: Re: Proplanner #314263

I suggest we waive the penalty and interest due to our conversion time period with the new system.

- Teresa Wahlert

On Sep 12, 2013, at 3:22 PM, "Hedrick, Timothy [IWD]" <Timothy.Hedrick@iwd.iowa.gov> wrote:

> Janet -

>

> I have reviewed the account and corrected the SSN keying errors that caused the taxable wage errors. Currently no contributions are due for 4/10, 3/12, or 2/13 as you described. However, please see attached as the penalty for the late 4/11 will not be removed. The envelope was postmarked Feb 06, 2012 which is 6 days late according to our code. The envelope must be postmarked by the Due Date for the quarter in question which was Jan 31, 2012. The employer is responsible for \$0.06 in interest(daily interest was calculated at \$0.01 per day) and then the late report penalty of \$166.37 for that quarter for a total amount due of \$166.37.

>

> I will have you know that we are current on our POA's and the agents have been assigned to all employer accounts that are currently established in our system. It is your role as an agent to acknowledge the roles assigned by the employer within your profile. Once the roles have been acknowledged by the agent user then the accounts will appear on your agent homepage and you will have the access granted by the employer to employer account. If you are having trouble with this contact the myIowaUI Customer Service Team at 888-848-7442, select Option #3, then option #7 or Email: IWDuitax@iwd.iowa.gov. We currently have other staff assisting with call volume so if you call request that you speak directly with a Customer Service Rep they are most knowledgeable regarding the agent accounts.

>

> Thank you,

>

> Tim Hedrick

> State of Iowa - Field Audit Lead Worker Unemployment Insurance
> Services
>
>
>
> -----Original Message-----
> From: Russell, Joyce [IWD]
> Sent: Thursday, September 12, 2013 10:37 AM
> To: Hedrick, Timothy [IWD]; Brown, Stacey [IWD]
> Subject: FW: Proplanner #314263
> Importance: High
>
>
> -----Original Message-----
> From: Janet Brimeyer [<mailto:Janet@klatt-assoc.com>]
> Sent: Thursday, September 12, 2013 8:17 AM
> To: Russell, Joyce [IWD]
> Subject: FW: Proplanner #314263
>
> FYI
>
> -----Original Message-----
> From: Wahlert, Teresa [IWD] [<mailto:Teresa.Wahlert@iwd.iowa.gov>]
> Sent: Wednesday, September 11, 2013 5:51 PM
> To: Janet Brimeyer
> Subject: Re: Proplanner #314263
>
> Great high school!!
> It is correct that our processes have been out of date and prone to errors for some time. That is why we have invested in mechanization.
>
> As with most newly mechanized projects there are clean- up issues. When we find errors we are correcting them. No - we should not be billing for penalty and interest on errors or on balances people did not know they had.
> We are waiving those.
>
> However, we are not way behind. I apologize to customers we have inaccurate information on. The errors are caused by everyone - the business, the CPAs, the third party providers, the financial institutions we interface with, the agents, the programmers, and IWD.
>
> We fix them all - sometimes one at a time . If you would send me your issues I would be happy to see that they are all resolved.
>
> - Teresa Wahlert
>
> On Sep 11, 2013, at 3:50 PM, "Janet Brimeyer" <Janet@klatt-assoc.com<<mailto:Janet@klatt-assoc.com>>> wrote:
>
> This is is the second employer that has incorrect data on the website that I have checked. Who knows if all of our employers have forwarded us the notices?
>
> This employer had incorrect wage reports for:
>
> 4/2010: 2 social security numbers entered incorrectly - caused taxable
> wages to be overstated
>
> 3/2012: 1 social security number entered incorrectly - caused taxable
> wages to be overstated
>
> 2/2013: 1 social security number entered incorrectly - caused taxable
> wages to be overstated
>
> How can I justify billing my time to find the errors when no notices have been issued and it was not the clients fault that the data was input incorrectly????
>
> I have called the My Iowa UI online number and have had several clients that I sent POA's for back on 7/25 and 8/2 and they were still not entered. The agent told me that they were entered but whoever entered them did not assign any roles to us an agent so they were not showing on our agent screen.
>
> Why should we have to spend our time checking up on Iowa Workforce? How can you justify billing any clients for penalties or interest if they have not been billed previously when they thought all along they were in compliance - just because your system was not up to date? We have called in the past to check on balances and were told that everything was way behind so we could not have even checked online on our clients even if we/they had access.
>
> I am hoping you are hearing the same things from other service providers.
>
> If you would like to discuss this further you can call me at 515-232-5642.
>
> Janet Brimeyer
>
> P.S. I am a graduate of Wahlert High School in Dubuque
>

>
> <00314263.pdf>

Message: FW: IWD Pamphlet Information

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:36 PM
 Item ID: 40860767
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 8:45:37 AM	Unreviewed	Koonce, Kerry
7/21/2014 5:23:29 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

FW: IWD Pamphlet Information

From Wilkinson, Michael [IWD] **Date** Thursday, May 17, 2012 4:26 PM
To Eklund, David [IWD]
Cc West, Ryan [IWD]; Carson, Etha [IWD]

[70-6202 Click Click Brochure 12-03-08.pdf](#) (112 Kb HTML) [68-0057 - Weekly Call In Instructions 08-27-07.pdf](#) (271 Kb HTML) [image002.gif](#) (2 Kb HTML) [Brochure 3-29.pdf](#) (1398 Kb HTML) [image004.png](#) (16 Kb HTML)

Please have special claims review the brochures for accuracy tomorrow and let me know if there are suggested changes.

From: Johnson, Brei [IWD]
Sent: Thursday, May 17, 2012 3:28 PM
To: Carson, Etha [IWD]; Wilkinson, Michael [IWD]; Goode, JoAnn [IWD]; Dow, Penny [IWD]
Subject: FW: IWD Pamphlet Information

Just want to communicate to everyone my situation and following up with the team on this request...

In about a week I will be focusing about 95% of my time on a major project and won't have the flexibility to help with these types of requests until about October (which is also about the time I should be due for my maternity leave too!)

Please get back to me asap on a direction we are going with this and even if the team does decide to move forward, at this point I still can't make any promises.

Brei Johnson
 Marketing Communications Specialist
 Communications Bureau

1000 East Grand Avenue
 Des Moines, IA 50319-0209
 515-281-8102 Phone
 515-281-4698 Fax
www.iowaworkforce.org

From: Carson, Etha [IWD]
Sent: Monday, April 30, 2012 10:01 AM
To: Wilkinson, Michael [IWD]
Cc: Johnson, Brei [IWD]; Dow, Penny [IWD]; Goode, JoAnn [IWD]
Subject: FW: IWD Pamphlet Information

Brei is checking on these brochures and whether we still need the update? I indicated I thought we did, but I would check with you.

Thanks,

Etha, Executive Officer

Unemployment Insurance Services



150 Des Moines Street
 Des Moines, Iowa 50306

Etha.Carson@iwd.iowa.gov

Phone: 515 281-9363

Fax: Please label clearly with my name, Thank you

515 242-0498

242-0494

or 281-7695

From: Johnson, Brei [IWD]
Sent: Friday, April 27, 2012 1:14 PM
To: Roovaart, Michelle [IWD]; Dow, Penny [IWD]
Cc: Carson, Etha [IWD]
Subject: RE: IWD Pamphlet Information

This project was on the back burner for me and so now I just want to touch base with everyone to see how to proceed now that this has been reversed. I didn't want to just assume this request isn't needed and so I wanted to check

Also, I found the attached Brochure in our SharePoint library and it is an updated version of the one initially provided to me for this project. Please see the attachment titled Brochure 3-29.

Thanks,

Brei Johnson
Marketing Communications Specialist
Communications Bureau

1000 East Grand Avenue
Des Moines, IA 50319-0209
515-281-8102 Phone
515-281-4698 Fax
www.iowaworkforce.org

From: Roovaart, Michelle [IWD]
Sent: Friday, March 09, 2012 3:19 PM
To: Johnson, Brei [IWD]; Dow, Penny [IWD]; Carson, Etha [IWD]
Subject: IWD Pamphlet Information

Attached is the only thing I could find at this point. We can start with this unless Penny has a hard copy of something that would work better.

Michelle Roovaart, Management Analyst III
Unemployment Insurance Division
150 Des Moines Street, Des Moines, IA 50309-1836
Phone (515) 242-0402 Fax (515) 242-0494

- [Image 1](#)
 - [Image 2](#)
-

Image 1

For general questions, contact:
UIClaimsHelp@iwd.iowa.gov

70-6202 (12-08)

An Equal Employment Opportunity Agency
Auxiliary aids and services are available
Upon request, for people with disabilities.
For deaf and hard of hearing, use Relay 711.

**To locate your closest Workforce
Development Center check your
local telephone directory or visit
our website**

www.iowaworkforce.org

Failure to report your weekly continued-claim
will cause a delay in your payments.

**To Check on the status of your claim or
benefit payment;**

**The on-line benefit status information at
<https://www1.iwd.state.ia.us/WeeklyClaims>**

is available 24 hrs a day 7 days a week.

Or

The touch tone telephone benefit information
line at (800) 850-5627 (outside of Des Moines)
281-6231 (in Des Moines calling area) is available
Tuesday through Friday from 7:30 a.m. to 4:59
p.m.

Note: If Monday is a holiday, updated information is not available until Wednesday.

**You can file
on-line for
Unemployment
Benefits by
visiting**

www.iowaworkforce.org

Note: You must use a touch-tone

telephone to ensure your calls are correctly recorded by the interactive voice response system.

Receiving Your Benefit Payments:

Most Iowans may receive unemployment for up to 26 weeks and in some cases 39 weeks. After you have filed your unemployment claim, you must confirm your eligibility **each week you are unemployed** using one of the following methods:

Continued Claim Web Reporting

You may file your weekly-continued claim on-line at
<https://www1.iwd.state.ia.us/WeeklyClaims>

Important: If you get disconnected or close out this application before the application tells you that your claim has been accepted, you will have to log-in and start again to successfully file your continued claim.

Touch-Tone Telephone Reporting

To file your weekly-continued claim by telephone, just call the continued claims IVR reporting system at **(800) 850-5627 (outside of Des Moines) or 281-6231 (in the Des Moines calling area)**

It is best to make your call during the hours of 10:00 a.m. Saturday to 11:30 p.m. on Sunday. The system is also available Monday through Friday 7:30 a.m. to 4:59 p.m.

The weekly call is a pre-recorded message that will ask you a series of questions and you will use your telephone keypad to enter your responses or respond to the online questions.

Image 2

If you do not meet the criteria to file on-line, you should contact a local Workforce Development Center for additional assistance in filing your unemployment claim.

Even if you do not have a home computer, you can file your unemployment claim on-line from any Internet connected computer, such as those found at the public library, your union hall, or your closest Workforce Development Center.

Eligibility Requirements

The basic eligibility requirements are that you:

- Are totally or partially unemployed.
- Have worked and earned a minimum amount of wages in work covered by unemployment tax during the past 18 months.

- Have lost your job through no fault of your own.
- Are able and available for work.
- Are registered for work at your local Workforce Development Center, unless work search is waived. You can register for work on-line by using the Employment Registration Services application.
- Are actively seeking work unless work search is waived.

For additional information or to better understand the eligibility requirements please read the **Facts about Unemployment Insurance Guide** on our website at www.iowaworkforce.org

. You

may also get a copy of the guide by visiting your closest Workforce Development Center.

Filing an Unemployment Claim

Iowa Workforce Development wants to help Iowans receive unemployment benefits to which they are entitled. Iowans eligible for this assistance may file a new unemployment claim by using one of the following methods:

On the Internet at www.iowaworkforce.org or by visiting your local Workforce Development Center.

Is filing a claim on-line right for you?

The fastest, most efficient way to apply for unemployment benefits is online. The Internet filing option is available 24 hours a day, seven days a week – it's always open!

To be able to file a claim online you must meet all of the following criteria:

- You must have worked in Iowa during the past 18 months. (earned Iowa wages);
- You must **not** have an existing unemployment claim in any other state with money (benefits) still available;
- You must **not** have an existing Railroad Unemployment claim with money still available;
- If you served in the U.S. military during the past 18 months, you **MUST** have an Iowa residence;
- If you have earned wages in more than one state in the past 18 months and you want those wages added to your claim, you must live in Iowa.

www.iowaworkforce.org

No matter how you file your unemployment benefit claim you will need to have the following information available:

What you will need:

- Your Social Security number;
 - The name, payroll address and telephone number of your most recent employer;
 - The first and last date you worked for that employer;
 - An Alien Registration number if you are NOT a U.S. citizen or permanent refugee.
 - If you served on active duty in the U.S. military during the past 18 months, a DD214 (member copy 4);
 - If you worked for the federal government in the past 18 months, a Standard Form 8, if one was provided to you;
 - The names of any dependents that you can claim as exemptions on your federal income tax return.
 - You may claim your spouse as a dependent if her/his gross wages were \$120 or less in the week prior to filing your claim. Self employment does not count as gross wages for dependent purposes.
-

- [Image 1](#)
 - [Image 2](#)
-

Image 1

You have applied for unemployment insurance benefits and the effective date of your claim will be Sunday, _____. To receive your unemployment insurance benefits each week you MUST call the continued claims reporting system at (800) 850-5627 (toll free outside the Des Moines area) or 281-6231 (within the Des Moines calling area). You may select either the English or the Spanish version of the script. The best hours to call are between 10 a.m., Saturday to 11:30 p.m., Sunday, or Monday through Friday, 7:30 a.m. to 4:59 p.m.

You should make your first call to the automated voice response system on _____, and will be claiming benefits for the period beginning _____ and ending _____. A prerecorded interactive voice response (IVR) system will ask you to certify that you:

- Are unemployed or working reduced hours;
- Are able and available for work;
- Have not refused any job offers or referrals;
- Are actively looking for work (unless waived); and
- Are reporting any pay or pension you may be receiving.

If you had earned wages or were paid vacation or severance pay for the week listed above, failure to report the income will result in delays on your claim and possible overpayment of benefits. All gross wages earned, including supplemental or part time wages, during weeks claimed must be reported when making weekly calls. This call is MANDATORY every week if you want to receive an unemployment insurance payment.

PERSONAL ID NUMBER (PIN)

When you make your continued claims call for the first time, you will be asked to enter a personal identification number (PIN). Be sure to select a PIN that will be easy to remember since you must use the same PIN each time you call to file your weekly claim or call to reactivate an existing claim. Do not use the same numbers in sequence (such as 1111 or 3333) or numbers in sequence (such as 1234). If you forget your PIN or think someone else knows your PIN, contact your local Iowa Workforce Development Center.

WORK SEARCH REQUIREMENTS

If your separation from your employer is permanent, you are required to activate a work registration with Iowa Workforce Development and make a minimum of two job contacts per week. Ask your Iowa Workforce Development representative how to activate your work registration. The same representative can clarify acceptable work search contacts. Keep a written record of your work search contacts in your *Facts About Unemployment Insurance* guide. Keep your record of contacts for work for up to 18 months from the initial filing of your claim.

Your work search requirement is waived if you will be called back to your regular employer.

If you are a union member in good standing, you are required to make a weekly contact to your union hall.

WEEKLY CALL-IN INSTRUCTIONS

68-0057 (08-07)

IOWA

DEVELOPMENT
Smart. Results.

Image 2

FACT FINDING INTERVIEW

On a new unemployment claim, your last employer and all employers you worked for in approximately the last 18

months will receive notice of this claim and may be responsible for paying some of the charges on the claim. If any of the employers notified protest your claim, a fact finding interview may be scheduled to gather information to issue decisions on your eligibility for benefits and potential charges to employer accounts. If you quit or were fired from your most recent job you will be scheduled for a fact finding interview. You and your former employer will receive a *Notice of Unemployment Insurance Fact-finding Interview* containing the scheduled date and time of a telephone interview. Be sure you check your mail carefully so you do not miss a scheduled telephone interview. **It is important to make your weekly call to the continued claims reporting system while unemployed, even during the weeks you are waiting for your scheduled interviews or appeals. It does take several weeks to process your application and determine eligibility.**

To check on the status of your claim or status of your benefit payment, call:

**Outside Des Moines, (800) 850-5627
Des Moines Area 281-6231**

The status information is only available Tuesday through Friday, 7:30 a.m. to 4:59 p.m.

Note: If Monday is a holiday, status information is not available until Wednesday of the week.

MONETARY DETERMINATION

New unemployment insurance applicants will receive a monetary determination form in the mail that includes the name of their last employer, Iowa wages used to set up the claim, number of dependents, the maximum potential payment each week and the maximum total potential payment on the claim. Carefully review the earnings listed and if they are incorrect, contact Iowa Workforce Development immediately. If your claim involves federal/military or out-of-state wages you will receive a second monetary determination after we request and receive the wage information from those departments.

FACTS ABOUT UNEMPLOYMENT INSURANCE GUIDE

New applicants will also receive a booklet, *Facts about Unemployment Insurance* guide. It is your responsibility to read and know the contents of the guide.

Equal Opportunity Employer/Program

Auxiliary aids and services are available upon request to individuals with disabilities.
For deaf and hard of hearing, use Relay 711.

[Preview is not available (conversion excluded for this file type).]

- [Image 1](#)
 - [Image 2](#)
-

Image 1

File Online Unemployment Insurance Benefits: **IowaWORKS**

Receiving UI Benefits

Iowans are typically approved for UI benefits for up to 26 weeks, and in some cases up to 39 weeks. Once your claim is approved, you will need to confirm your eligibility weekly.

Each week you will be asked to apply for two jobs and confirm that you were able and available for work. You can do this either online or by calling (800) 850-5681 (outside of Des Moines) or (515) 281-6231 (in the Des Moines calling area).

To receive your benefit money on time, you should file your weekly claim anytime between the hours of 10:00 a.m. Saturday through 11:30 p.m. Sunday. However, the system is also available Monday-Friday from 7:30 a.m. – 4:59 p.m.

The weekly pre-recorded message will ask you a series of question and you will use your telephone keypad to enter your responses.

To make sure your calls are correctly recorded by

the interactive voice response system, you should use a touch-tone phone.

Failure to provide updated information weekly will cause a delay in your payments.

To check the status of your claim or your benefit payments, call (800) 850-5627 or (515) 281-6231.

In addition, benefit status information is available Tuesday-Friday from 7:30 a.m. – 5:00 p.m.

NOTE: If Monday is a holiday, this information will not be available until Wednesday.

UI Claims Status Check

To find your local Iowa *WORKS* office or for more information, please visit www.iowaworkforce.org.

For general UI question, e-mail UIClaimsHelp@iwd.iowa.gov.

Iowa *WORKS*

*Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request
to individuals with disabilities.
70-6202 (02-11)*

www.iowaworkforce.org

Image 2

Iowa *WORKS* is committed to assisting Iowans in filing for Unemployment Insurance (UI) benefits in a quick, efficient manner. Iowans who are eligible for UI benefits need to file a claim to receive this assistance.

The fastest, most efficient way is to apply for benefits online is by visiting www.iowaworkforce.org.

Eligibility Requirements

Not everyone will be eligible to receive UI

benefits. In order to receive benefits, you should:

- Be totally or partially unemployed
- Have lost your job through no fault of your own be able and available for work

- Have worked and earned a minimum amount of wages in work covered by UI tax during the past 18 months
- Be actively seeking work and registered for work at your local Iowa *WORKS* office (unless work search is waived). You can register for work online by using the Employment Registration Services application.

No matter how you file a UI benefit claim, you will need to have the following information available:

- Your social security number
- Your most recent employer's name, payroll address and telephone number of your recent employer
- The first and last date worked for your previous employer
- An alien registration number if you are
- NOT a U.S. citizen or permanent refugee
- A copy of your DD214, if you've served in the military during the past 18 months
- A Standard Form 8, if you've worked for the federal government in the past 18 months

What You'll Need to File a Claim

In order to file a claim online, you must:

- Not have an existing unemployment claim in any other state with money (benefits) still available
- Not have an existing Railroad UI claim with money still available
- Have an Iowa residence, if you've served in the military in the last 18 months
- live in Iowa if you've earned wages in more than one state in the past 18 months and you want those wages added to your claim
- Names of any dependents that you can

claim as exemptions on your federal income tax return. You may claim your spouse as a dependent if his/her gross wages were \$120 or less in the week prior to filing your claim.

(Self-employment does not count as gross wages for dependent purposes.)

For additional information or to better understand the eligibility requirements, you can read the *"Facts about Unemployment Insurance Guide"* on our website at www.iowaworkforce.org.

You may also get a copy of the guide by visiting your local Iowa *WORKS* office.

If you do not meet the criteria to file online, you can receive additional assistance for filing your claim at your local Iowa *WORKS* office.

Eligibility Requirements for Filing a UI Claim Online

[Preview is not available (conversion excluded for this file type).]

Message: RE: Thanks and Examples

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:57 PM
Item ID: 40860878
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Thanks and Examples**

From Lewis, Devon [IWD] **Date** Friday, May 03, 2013 5:09 PM
To Walsh, Joseph [IWD]
Cc

You're welcome. It used to happen a lot more than it does now, but has been a perennial issue for 20 years. I'll take a look for more examples.

Another issue raised at the meeting was JB's latest advice to local offices and claims, especially when they were extra busy within the last four or five years, was to tell claimants to file as a layoff so it would escape the automatic FF flag. Again, this does claimants no favors – and certainly not the fund.

We also need to have a discussion at a staff meeting about getting ALJs on the same page about the 'quit or be discharged' issue and 'temp agency discharge from assignment but not the agency' cases. RS seems to be in the minority on both issues. These are also claims/FF training issues, but we need to get our heads together on this before we can ask them to do so.

From: Walsh, Joseph [IWD]
Sent: Wednesday, May 01, 2013 4:14 PM
To: Lewis, Devon [IWD]
Subject: Thanks and Examples

I wanted to thank you for putting all of that information together for last week's meeting.

Do you have any examples of the part-time quit issue that is really a full-time quit (where claims granted benefits)? Do you have an estimate of how often this comes up? (I am told it should hardly

ever come up since the employer is relieved of charges). Trying to figure out if this is a big enough hill to die on.

Joseph L. Walsh

Chief Administrative Law Judge
Unemployment Insurance Appeals
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: (515) 281-8119
joseph.walsh@iwd.iowa.gov

Message: RE: 04631.DT - Moving Overpayment Hearing

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:57 PM
Item ID: 40860882
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: 04631.DT - Moving Overpayment Hearing

From Lewis, Devon [IWD] **Date** Monday, May 13, 2013 9:16 AM
To Hillary, Teresa [IWD]
Cc

 **image002.gif** (5 Kb HTML)

She needs to spend her time on writing decisions instead of hyper analyzing cases not yet scheduled! Sheesh!

From: Hillary, Teresa [IWD]
Sent: Monday, May 06, 2013 9:51 AM
To: Lewis, Devon [IWD]
Subject: FW: 04631.DT - Moving Overpayment Hearing

I will never understand her.

From: Hillary, Teresa [IWD]
Sent: Monday, May 06, 2013 9:50 AM
To: Donner, Lynette [IWD]
Cc: Benson, Joni [IWD]
Subject: RE: 04631.DT - Moving Overpayment Hearing

Well, I'm happy to be able to relieve you of the burden of doing research for both files. I'm sure you have other pressing things that you can do with your time. I will look for the file next week.

Thanks much for your cooperation,
Teresa

From: Donner, Lynette [IWD]
Sent: Monday, May 06, 2013 9:48 AM
To: Hillary, Teresa [IWD]
Subject: RE: 04631.DT - Moving Overpayment Hearing

I didn't take any file home with me but this one. I brought this one home because it was a unique issue that might deserve a closer examination and it even looked like something that might be able to resolved without a hearing.

From: Hillary, Teresa [IWD]
Sent: Monday, May 06, 2013 9:46 AM
To: Donner, Lynette [IWD]; Benson, Joni [IWD]
Cc: Walsh, Joseph [IWD]
Subject: RE: 04631.DT - Moving Overpayment Hearing

Just happened today. The minute before I sent you the e-mail. The claimant noticed it when she got her hearing notice and called in this am. Vanessa transferred the call to me, I took the information to Joni and you were immediately notified by e-mail. Part of the discussion at the last staff meeting was the alj's who work from home would not take more than two weeks of files with them. The hearing set for you that was moved was for May 29. Today is May 6 so you have files with you that are 23 days out from hearing. Why are you taking more than two weeks of files home with you? If the file had been left at the office, there would be no need for you to deal with it.

From: Donner, Lynette [IWD]
Sent: Monday, May 06, 2013 9:40 AM
To: Hillary, Teresa [IWD]; Benson, Joni [IWD]
Subject: RE: 04631.DT - Moving Overpayment Hearing

I already did the research on Friday. Will leave it in the file. Will bring in the file next week and will put it in Tere's box.

Please let me know asap when a file that has been previously scheduled for me is being moved to someone else. I pretty much keep track of my advance scheduling on a daily basis.

From: Hillary, Teresa [IWD]
Sent: Monday, May 06, 2013 9:37 AM
To: Benson, Joni [IWD]; Donner, Lynette [IWD]
Subject: RE: 04631.DT - Moving Overpayment Hearing

Pls bring the files back to me. I am handling both of them. No need to do independent research.

Thanks much

Teresa

From: Benson, Joni [IWD]
Sent: Monday, May 06, 2013 9:33 AM
To: Hillary, Teresa [IWD]
Subject: FW: 04631.DT - Moving Overpayment Hearing

FYI

From: Donner, Lynette [IWD]
Sent: Monday, May 06, 2013 9:33 AM
To: Benson, Joni [IWD]
Subject: RE: 04631.DT - Moving Overpayment Hearing

So 04630 is also being moved from me to Terri? I had pulled the file and brought it home with me because it appears there are different issues I have been researching/checking into.

From: Benson, Joni [IWD]
Sent: Monday, May 06, 2013 9:30 AM
To: Donner, Lynette [IWD]; Hillary, Teresa [IWD]
Cc: Anderson, Donnell [IWD]
Subject: 04631.DT - Moving Overpayment Hearing

Lynette,

The overpayment case (04631.DT) should have been scheduled with hearing 04630.H2T. I am moving the overpayment case from you to Teresa.

Donni, please give this file to Teresa.

APLE H2 051613 WEEKLY ITINERARY FOR TERESA HILLARY 09:27:40 05/06/2013

TIME	APPEAL #	APPELLANT	RESPONDENT	LOC
THURSDAY MAY 16, 2013				
02:30	13AUI 04630	HOLWERDA, SHERI	HOLWERDA LAW OFFICE	TE
02:35	13AUI 04631	HOLWERDA, SHERI		TE

Joni K. Benson

Iowa Workforce Development - UI Appeals
Ph: 515-281-8484 FAX: 515-242-5144
email: joni.benson@iwd.iowa.gov



Please consider the environment before printing this e-mail.

Message: RE: Appeals / Claims meeting

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:58 PM
Item ID: 40860904
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Appeals / Claims meeting**

From Lewis, Devon [IWD] **Date** Friday, May 24, 2013 9:16 AM
To Wise, Steve [IWD]
Cc

Thank you for offering. I think with your computer skills it makes sense to be part of Wilkinson's paperless transition committee. I urged Marlon to be on that too because he's kind of a tech head but he shrugged it off. Maybe he'll listen to you since Joe does not seem to like to force issues or delegate, which is to everyone's detriment. Between that and what you are already doing for us, that will likely be plenty, aside from Skilled Iowa speaking engagements, which appears to be expected from everyone. I think Joe may need help getting his power point transferred to ALJs, who will likely need training also.

One other thing came up in the A/C meeting yesterday that she really hopped on was adding a simple sentence above the E max potential liability # to identify it. Something like: "Employer's maximum potential liability in this claim year." That would not require reprogramming of the number placement. I've mentioned that to multiple people before dating back to DA but no response or action until she was there yesterday.
DML

From: Wise, Steve [IWD]
Sent: Thursday, May 23, 2013 4:42 PM
To: Lewis, Devon [IWD]
Subject: Appeals / Claims meeting

Please let me know what topics came up that you think I could be of assistance with.

Steven A. Wise

Administrative Law Judge
515-281-3747



BE GREEN – Please consider the environment before printing this e-mail.

Message: RE: Appeals / Claims meeting**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:58 PM
 Item ID: 40860906
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: Appeals / Claims meeting

From Lewis, Devon [IWD] **Date** Friday, May 24, 2013 10:03 AM
To Wise, Steve [IWD]
Cc

TW went so far as to say even if there is liability in future years or the amount is large, the E is entitled to know what that figure represents so it can make a business decision about how or whether to proceed.

From: Wise, Steve [IWD]
Sent: Friday, May 24, 2013 9:47 AM
To: Lewis, Devon [IWD]
Subject: RE: Appeals / Claims meeting

Like you the protest form with the phantom \$ number has been something I have harp on for years as well. We have cases that have gone to EAB and court on Employer where there was zero current benefit year liability because no one told they really have nothing or little at stake.

From: Lewis, Devon [IWD]
Sent: Friday, May 24, 2013 9:16 AM
To: Wise, Steve [IWD]
Subject: RE: Appeals / Claims meeting

Thank you for offering. I think with your computer skills it makes sense to be part of Wilkinson's paperless transition committee. I urged Marlon to be on that too because he's kind of a tech head but he shrugged it off. Maybe he'll listen to you since Joe does not seem to like to force issues or delegate, which is to everyone's detriment. Between that and what you are already doing for us, that will likely be plenty, aside from Skilled Iowa speaking engagements, which appears to be expected from everyone. I think Joe may need help

getting his power point transferred to ALJs, who will likely need training also.

One other thing came up in the A/C meeting yesterday that she really hopped on was adding a simple sentence above the E max potential liability # to identify it. Something like: "Employer's maximum potential liability in this claim year." That would not require reprogramming of the number placement. I've mentioned that to multiple people before dating back to DA but no response or action until she was there yesterday.

DML

From: Wise, Steve [IWD]
Sent: Thursday, May 23, 2013 4:42 PM
To: Lewis, Devon [IWD]
Subject: Appeals / Claims meeting

Please let me know what topics came up that you think I could be of assistance with.

Steven A. Wise
Administrative Law Judge
515-281-3747



BE GREEN – Please consider the environment before printing this e-mail.