

Message: RE: social security numbers

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: 40860791
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: social security numbers

From Lewis, Irma [IWD] **Date** Monday, June 04, 2012 8:49 AM
To Eklund, David [IWD]
Cc

Awesome, thanks

Irma

From: Eklund, David [IWD]
Sent: Monday, June 04, 2012 8:48 AM
To: Lewis, Irma [IWD]
Subject: FW: social security numbers

Irma,
I have been working the Social Security report since Matt left in March. Please forward all inquiries of this nature to me.
Thank you.

From: Wahlert, Teresa [IWD]
Sent: Saturday, June 02, 2012 3:58 PM
To: Wilkinson, Michael [IWD]
Cc: Eklund, David [IWD]
Subject: Re: social security numbers

Then tell her

Sent from my iPhone

On Jun 2, 2012, at 12:01 PM, "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov> wrote:

It should go directly to Dave Eklund

Sent from my iPad

On Jun 1, 2012, at 8:43 PM, "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov> wrote:

Who or where should she be sending this info to?
Teresa

Sent from my iPhone

Begin forwarded message:

From: "Lewis, Irma [IWD]" <Irma.Lewis@iwd.iowa.gov>
Date: June 1, 2012 7:19:19 AM CDT
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: FW: social security numbers

<image001.gif>

Would you please forward this to whomever is doing the social security report now; I know you said there were four people in that position, but if you told me specifically who was doing the social security report, I missed it; thanks

Irma

From: Richards, Vicki [IWD]
Sent: Thursday, May 31, 2012 3:19 PM
To: Lewis, Irma [IWD]
Subject: social security numbers

I have a claimant who filed her claim under the social security number [REDACTED], her name is [REDACTED] [REDACTED] 05/05/92. I talked to the employer who says she never worked there. They have those wages belonging to [REDACTED]. Could you check and let me know what number is correct for [REDACTED].

Thanks,

Vicki

Vicki Richards
Work Force Advisor/ Deputy 84
Iowa Workforce Development UISC
P O Box 10332
Des Moines, Iowa 50306-0332
Phone: 515-242-0409 Fax: 515-281-4057

Email: vicki.richards@iwd.iowa.gov

*Life isn't about waiting for the storm to pass, it's about
learning to dance in the rain.*

Message: RE: Aliens

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:39 PM
Item ID: 40860824
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Aliens**

From Lewis, Irma [IWD] **Date** Monday, July 23, 2012 11:04 AM
To Eklund, David [IWD]
Cc

It is clear. I was sending to Mike because that is who Teresa Wahlert told me to send it to...have her e-mail somewhere if you want to see it...

Irma

-----Original Message-----

From: Eklund, David [IWD]
Sent: Monday, July 23, 2012 11:03 AM
To: Lewis, Irma [IWD]
Subject: Aliens

Irma,
Effective immediately STOP sending alien stuff to Mike.
It goes directly to me.
If this is not clear enough, let me know.
Thank you.

Message: FW: reports**Case Information:**


Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:39 PM
 Item ID: 40860825
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: reports**

From Lewis, Irma [IWD] **Date** Monday, July 23, 2012 11:06 AM
To Eklund, David [IWD]
Cc

Found it.

Irma

From: Wahlert, Teresa [IWD]
Sent: Wednesday, May 09, 2012 3:19 PM
To: Lewis, Irma [IWD]
Subject: RE: reports

Please send the reports to Mr. Wilkinson if you receive them. That would be very helpful.
 We are all working on the bodies very hard right now. We are just beginning to see some of our
 budget levels develop.

Teresa

From: Lewis, Irma [IWD]
Sent: Wednesday, May 09, 2012 3:12 PM
To: Wahlert, Teresa [IWD]
Subject: RE: reports

I have two questions; well maybe three; who is the operations manager that is doing the social
 security report, Mr. Eklund:: I guess I should know who the operations manager is and do not;

Also, who is doing the alien report; please; The documents have been coming to our office and
 obviously should be sent to whomever is doing the report as the people in the field have been sending

them to our office for quite some time and nobody told us to forward them elsewhere. Some of these people have proof of their green cards and these should be forwarded to that person

Message: RE: Aliens

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:39 PM
Item ID: 40860827
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: Aliens

From Lewis, Irma [IWD] **Date** Monday, July 23, 2012 11:49 AM
To Eklund, David [IWD]
Cc

I got that, it just seemed your e-mail was worded as if I had done something wrong, and I was simply following directive that I was given.

Irma

-----Original Message-----

From: Eklund, David [IWD]
Sent: Monday, July 23, 2012 11:46 AM
To: Lewis, Irma [IWD]
Subject: Re: Aliens

Nope, I am simply changing your process as is my prerogative..

----- Original Message -----

From: Lewis, Irma [IWD]
Sent: Monday, July 23, 2012 11:03 AM
To: Eklund, David [IWD]
Subject: RE: Aliens

It is clear. I was sending to Mike because that is who Teresa Wahlert told me to send it to...have her e-mail somewhere if you want to see it...

Irma

-----Original Message-----

From: Eklund, David [IWD]

Sent: Monday, July 23, 2012 11:03 AM

To: Lewis, Irma [IWD]

Subject: Aliens

Irma,

Effective immediately STOP sending alien stuff to Mike.

It goes directly to me.

If this is not clear enough, let me know.

Thank you.

Message: FW: melissa rogers - 2nd request

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:43 PM
Item ID: 40862022
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: melissa rogers - 2nd request**

From Lewis, Irma [IWD] **Date** Monday, March 03, 2014 8:45 AM
To Eklund, David [IWD]
Cc

I show no overpayment for her on OVPY; did this get assigned to somebody to work? Please advise.

From: Lewis, Irma [IWD]
Sent: Tuesday, November 05, 2013 11:47 AM
To: Eklund, David [IWD]
Subject: melissa rogers
Importance: High

Have an audit on her; can be prosecuted since it is over \$1000. CALL ME please

Irma Lewis, Investigator
Iowa Workforce Development
515-281-4971
Fax 515-281-9753

*I DREAM OF A DAY WHEN:
Nobody questions why the chicken wanted to cross the road*

Message: Tomorrow's Meeting**Case Information:**

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:16 PM
Item ID: 40860722
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ Tomorrow's Meeting

From Walsh, Joseph [IWD]

Date Thursday,
October 27, 2011
12:43 PM

To Ackerman, Susan [IWD]; Anderson, Dan [IWD]; Coleman, Carolyn [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 Benson, Joni [IWD]

Tomorrow's meeting will begin at 1 p.m. in the Capitol View Room at 1000 East Grand Avenue. The agenda will be as follows:

1-1:30	Road Venue assignment lottery 2012
1:30-2:15	Meet Director Wahlert
2:15-2:45	Go over hearing notice for phone process (will try to send draft later today)
3:00	Adjourn

Anyone who would like to sign up for additional road venues will gain a priority in the lottery. Please be thinking about whether you would like to volunteer for additional assignments.

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: PTO Survey Update

Case Information:


Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:17 PM
 Item ID: 40861554
 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

 **PTO Survey Update**

From Wilkinson, Michael [IWD] **Date** Thursday, September 26, 2013 5:14 PM

To Lewis, Devon [IWD]; Hillary, Teresa [IWD]; West, Ryan [IWD]; Eklund, David [IWD]; Olivencia, Nicholas [IWD]

Cc Wahlert, Teresa [IWD]

 PTO Survey.xlsx (19 Kb HTML)

Attached are the responses I have received from 13 states so far. They were given until next Monday to respond. I will update it if I get more comments. Bottom line, most treat PTO like wages or vacation pay and make it deductible.

State

Response

Virginia

: In Virginia we would treat PTO just like vacation pay. As an example, if an employee is separated but will be receiving PTO equal to two w
Conecticut

PTO is treated the exact same way as vacation time with one exception: If the PTO could be used for sick time (i.e. the employer's policy p
Wisconsin

Wisconsin treats PTO as wages when calculating benefits payable for a week of unemployment when specific conditions are met. We use the sam
To calculate benefit payment when the claimant has wages in a week: the first \$30 of the wages is disregarded and the employee's applicable
New Mexico

In New Mexico we don't have anything specific on PTO - we only deduct vacation pay. Our Statue states if the claimant has a definite return
Alabama

Our admin rules in Alabama outline what is deductible income and our reasoning would be the individual is not unemployed for the period of
Arkansas

Arkansas treats PTO just like it does vacation pay and/or sick pay--as earnings during the week the PTO period occurred. In Arkansas, a clai
Idaho

Idaho picks this up as compensation/wages and no allowance is made. It is fully reportable as wages.

Montana

Montana is not familiar with the term "Paid Time Off". I conducted a brief search of your administrative rules and didn't find the term.

New Jersey

I am not quite sure of your definition of Paid Time Off (PTO) it would be helpful if you could provide a definition. New Jersey does not pa
Wyoming

It would depend on how the Employer labels it, if they say it is for annual leave, then we would use it as vacation pay and deduct the amoun

Arizona

If your state has a deduction for vacation pay, do you also deduct PTO when reported by the employer? Yes, in Arizona, PTO is treated the sa
1. If yes, could you share how you make the deduction? According to the procedure DES 3-18-10K and administrative rule R-6-55460, it states

Alaska

In Alaska if the week is claimed there is a deduction for paid time off or used vacation/sick leave. The payment must be from a base period

Utah

Utah UI law states the claimant will be disqualified for any week the claimant is entitled to receive a dismissal or separation payment or "

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: 40862462
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

FW: Meeting with Director

From Lewis, Devon [IWD] **Date** Monday, March 24, 2014 3:39 PM
To Koonce, Kerry [IWD]
Cc Hillary, Teresa [IWD]

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: FW: first EAB decision on participation issue**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: 40861834
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: first EAB decision on participation issue

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

Found yet another one...

From: Lewis, Devon [IWD]
Sent: Thursday, October 17, 2013 10:19 AM
To: Hendricksmeier, Bonny [IWD]
Subject: RE: first EAB decision on participation issue

We'll be talking about this as a group on Friday, but the EAB dicta seems to be that they would prefer that in addition to some explanation of the reason we found or did not find participation.

From: Hendricksmeier, Bonny [IWD]
Sent: Thursday, October 17, 2013 10:17 AM
To: Lewis, Devon [IWD]
Subject: RE: first EAB decision on participation issue

Should we be adding this statement to the on the record decision about taking official notice of the file?

From: Lewis, Devon [IWD]
Sent: Wednesday, October 16, 2013 10:27 AM
To: Scheetz, Beth [IWD]; Hendricksmeier, Bonny [IWD]; Wise, Debra [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]; Lewis, Devon [IWD]

Subject: first EAB decision on participation issue

FYI

The Board affirmed an overpayment decision where the E faxed documents in lieu of participation the day of the FF interview. It also modified the ALJ's decision to reflect taking "official notice of the administrative file, which contains documents faxed on behalf of the E for the FF interview."

Devon

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 1:32:36 PM
 Item ID: 40861835
 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 Lewis, Devon [IWD] **Date** Saturday, March 29, 2014 1:36 PM
To Koonce, Kerry [IWD]
Cc

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

And another...

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: My Iowa UI reference on decisions

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: 40860908
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **My Iowa UI reference on decisions**

From Lewis, Devon [IWD]

Date

Tuesday,
May 28, 2013
10:35 AM

To Stephenson, Randall [IWD]; Mormann, Marlon [IWD]; Walsh, Joseph [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]; Timberland, James [IWD]; Wise, Debra [IWD]; Wise, Steve [IWD]

Cc

The Director mentioned in the Appeals/Claims meeting last week that she would like a reference to MyIowaUI on our decisions. One ALJ (not sure who) is currently doing that and I insert a reference when the E needs to make a name or address correction. The easiest way to incorporate that would be to add something to the caption that ends up at the end of the decision after our signature. Any other suggestions? Is there a similar reference for claimants we should include?

I use this but it is excessive for a simple general reference.

NOTE TO EMPLOYER:

If you wish to change the of record, please access your account at:

<https://www.myiowauui.org/UITIPTaxWeb/>.

Helpful information about using this site may be found at:

<http://www.iowaworkforce.org/ui/uiemployers.htm> and

<http://www.youtube.com/watch?v= mpCM8FGQoY>

Dévon

Message: Snyder stipulation memo

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: 40860909
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Snyder stipulation memo**

From Lewis, Devon [IWD] **Date** Tuesday, May 28, 2013 11:37 PM
To Wahlert, Teresa [IWD]
Cc

MEMO

To: IWD Director Teresa Wahlert
From: Dévon M. Lewis, ALJ II
Date: May 28, 2013
Re: Snyder stipulation

Snyder v. Iowa Dep't of Job Serv., U.S. District Court for the Southern District of Iowa, Civil Action No 80-395-C, Stipulation, September 3, 1982. [FYI, this document was signed by James Elliott on behalf of the Ottumwa office of Legal Services Corp of Iowa. He is now a Deputy Workers' Compensation Commissioner and has also worked temporarily in the UI Appeals Bureau.]

The action was brought by a class of claimants whose benefits were at risk of termination without advance written notice, or fact-finding following procedural due process requirements. Appeals Bureau hearings conducted pursuant to the Iowa Administrative Procedures Act (IAPA) in Iowa Code 17A are *excluded* from the stipulation.

The Department agreed not to make "non-monetary" (e.g. separation, notice to report) disqualifications without written notice, either an in-person fact-finding interview or waiver of

the right to an in-person fact-finding interview, *and* a) clearly state the issue on a notice that may lead to termination of benefits, b) clearly explain the issue and applicable law to the claimant, c) be allowed to submit additional evidence within three business days, d) distribute Facts for Workers booklet to all benefit applicants, e) clearly state appeal rights and instructions on representatives' decisions, and f) be notified of the right to counsel and record the interview at claimant's expense, confront and cross-examine witnesses, present relevant evidence (exhibits, testimony, witnesses), notice of issues and purpose of the interview (duplicate of b above), right to inspect the claim file and obtain copies, and the right to review UI law and regulations or other authority that may apply.

Essentially, the stipulation requires the Department to provide due process, primarily clear notice, to claimants at the claim/fact-finding level as it is provided at the Appeals hearing level by the IAPA. Given technological advances since 1982, much of the notice may be in electronic form as long as there is reasonably adequate access. Overall, the bulk of the stipulation is very adaptable to a paperless claim and fact-finding system.

The most troubling part of the agreement is the in-person aspect. The Department has long since stopped providing in-person fact-finding interviews and they are rarely necessary. Certainly, with the number of claims, in-person fact-findings are not practicable and conference call, fax, e-mail and scanning technology at least partially addresses the presentation of evidence and confrontation of witnesses concern. Additional research may be necessary on this particular point but a cursory search indicates that in a probate (equity) dispute for example, absent statutory or regulatory authority for telephonic hearings, in-person testimony is required. I have not found anything addressing an equivalent to a fact-finding level proceeding. IWD Appeals in-person hearing requests are *required* by rule to be granted in named local offices, absent distance between the parties. There is no other basis for denial of an in-person request; even security threats do not trump the in-person demand. Department rules have not kept up with technology in this regard.

Most of the areas of concern about Snyder requirements we notice at the Appeals level is with the lack of fact-finding on some issues and the limitation of characters or programming of ANDS forms that limit explanation. Fact-finders could use some initial or refresher training on due process.

Please advise if I may be of further assistance.

DML

Message: FW: Snyder stipulation memo

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: 40860912
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Snyder stipulation memo**

From Lewis, Devon [IWD] **Date** Wednesday, May 29, 2013 12:10 AM
To Hillary, Teresa [IWD]
Cc

From: Lewis, Devon [IWD]
Sent: Tuesday, May 28, 2013 11:37 PM
To: Wahlert, Teresa [IWD]
Subject: Snyder stipulation memo

MEMO

To: IWD Director Teresa Wahlert
From: Dévon M. Lewis, ALJ II
Date: May 28, 2013
Re: Snyder stipulation

Snyder v. Iowa Dep't of Job Serv., U.S. District Court for the Southern District of Iowa, Civil Action No 80-395-C, Stipulation, September 3, 1982. [FYI, this document was signed by James Elliott on behalf of the Ottumwa office of Legal Services Corp of Iowa. He is now a Deputy Workers' Compensation Commissioner and has also worked temporarily in the UI Appeals Bureau.]

The action was brought by a class of claimants whose benefits were at risk of termination

without advance written notice, or fact-finding following procedural due process requirements. Appeals Bureau hearings conducted pursuant to the Iowa Administrative Procedures Act (IAPA) in Iowa Code 17A are *excluded* from the stipulation.

The Department agreed not to make “non-monetary” (e.g. separation, notice to report) disqualifications without written notice, either an in-person fact-finding interview or waiver of the right to an in-person fact-finding interview, *and* a) clearly state the issue on a notice that may lead to termination of benefits, b) clearly explain the issue and applicable law to the claimant, c) be allowed to submit additional evidence within three business days, d) distribute Facts for Workers booklet to all benefit applicants, e) clearly state appeal rights and instructions on representatives’ decisions, and f) be notified of the right to counsel and record the interview at claimant’s expense, confront and cross-examine witnesses, present relevant evidence (exhibits, testimony, witnesses), notice of issues and purpose of the interview (duplicate of b above), right to inspect the claim file and obtain copies, and the right to review UI law and regulations or other authority that may apply.

Essentially, the stipulation requires the Department to provide due process, primarily clear notice, to claimants at the claim/fact-finding level as it is provided at the Appeals hearing level by the IAPA. Given technological advances since 1982, much of the notice may be in electronic form as long as there is reasonably adequate access. Overall, the bulk of the stipulation is very adaptable to a paperless claim and fact-finding system.

The most troubling part of the agreement is the in-person aspect. The Department has long since stopped providing in-person fact-finding interviews and they are rarely necessary. Certainly, with the number of claims, in-person fact-findings are not practicable and conference call, fax, e-mail and scanning technology at least partially addresses the presentation of evidence and confrontation of witnesses concern. Additional research may be necessary on this particular point but a cursory search indicates that in a probate (equity) dispute for example, absent statutory or regulatory authority for telephonic hearings, in-person testimony is required. I have not found anything addressing an equivalent to a fact-finding level proceeding. IWD Appeals in-person hearing requests are *required* by rule to be granted in named local offices, absent distance between the parties. There is no other basis for denial of an in-person request; even security threats do not trump the in-person demand. Department rules have not kept up with technology in this regard.

Most of the areas of concern about Snyder requirements we notice at the Appeals level is with the lack of fact-finding on some issues and the limitation of characters or programming of ANDS forms that limit explanation. Fact-finders could use some initial or refresher training on

due process.

Please advise if I may be of further assistance.

DML

Message: FW: Welch, McCarthy - PT Quit Memo**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: 40860911
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Welch, McCarthy - PT Quit Memo**

From Lewis, Devon [IWD] **Date** Wednesday, May 29, 2013 12:10 AM
To Hillary, Teresa [IWD]
Cc

From: Lewis, Devon [IWD]
Sent: Wednesday, May 29, 2013 12:07 AM
To: Wahlert, Teresa [IWD]
Subject: Welch, McCarthy - PT Quit Memo

MEMO

To: IWD Director Teresa Wahlert
 From: Dévon M. Lewis, ALJ II
 Date: May 28, 2013
 Re: Welch and McCarthy cases – Part-time quit issue

McCarthy v. Iowa Emp't Sec. Comm'n, 247 Iowa 760, 76 N.W.2d 201 (1956). McCarthy worked full-time for a produce company and worked an "extra, part-time job" for a bowling alley for a "limited" period (7 or 8 weeks) and quit because "he found combined jobs too heavy." Shortly thereafter and before requalification, the produce company laid him off. The Court held that disqualification should not apply to the *concurrent* part-time separation because the part-time work did not create the unemployment. It directed the commission to develop rules adopt rules to address charges or relief therefrom to full- and part-time

employers.

Welch v. Iowa Dep't Emp't Servs., 421 NW2d 150 (Iowa Ct. App. 1988). Welch worked full-time for Oscar Mayer and was separated in May 1983. After a period of severance pay he began receiving full UI benefits in January 1984. He began part-time employment with the City of Minburn in May 1984 and began receiving partial UI benefits, still based upon his wage credits at Oscar Mayer. Welch quit the part-time work in January 1985 to move to Arizona and seek full-time employment.

The Court declined to make a distinction between a first and second benefit year entitlement. It relied heavily on the *McCarthy* rationale and said a total separation disqualification applies to the "primary" or "regular" employment that caused the original unemployment and relieving that employer would give it an "undue benefit." It identified policy considerations to resolve the issue and held that the statute allows for a monetary incentive for unemployed workers to supplement their benefits by seeking "supplemental part-time work" and disqualification would serve as punishment. The identified legislative intent was to provide claimants an incentive to supplement their benefits with part-time work while allowing them to seek and remain available for regular full-time work and noted this allows an employee to end up with more income than if he did not work while not fearing risk of total benefit loss if quitting part-time work.

It observed the separation from Oscar Mayer continued throughout the claim and his separation from part-time work with Minburn "changed his status from partially unemployed to totally unemployed, not from employed to unemployed." The partial UI benefits reduced the charges to Oscar Mayer but did not remove the fact of the initial cause of unemployment. Because the part-time wage credits are removed from the base period until requalification, the part-time employer is not penalized.

Throughout the decisions the Court used or referred to phrases like "comparatively minor evening part-time job," "sideline," "optional part-time work," "primary, principal, or full-time employment" and "regular full-time employment." At no point did the Court, or other states' courts mentioned in the decision, refer to this being a substitute for short-term or a trial period of employment, or as a mechanism to determine suitability of work. An allowance of benefits after quitting short-term, full-time employment would seem to encourage a claimant to use it as a one-sided, no-penalty trial period of employment. Iowa Admin. Code r. 871-24.25(12) provides for disqualification if an individual quits "without notice during a mutually agreed upon trial period of employment." In fact, the Iowa Supreme Court rejected the idea that a person who is receiving unemployment insurance benefits can try out a job and then quit if

the person considers the job unsuitable. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985). Taylor, having existing health issues, accepted a full-time job as a jackhammer operator and quit after six days. Taylor argued disqualification would be unfair because he went the extra mile in searching for gainful employment. The Court specifically declined to carve out a judicial exception to the existing statute to give special protection to persons who were drawing UI benefits prior to accepting inappropriate employment and left that to the legislature, which has declined to amend the statute.

I have other brief arguments based upon current rules but have limited the discussion to case law. If you wish to have further analysis based upon Department rules, please advise.

DML

Dévon

Message: 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: 40861722
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Tip Sheet**

From Stalker, Teresa [IWD] **Date** Friday, October 18, 2013 10:32 AM
To Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Cc

 [EmployerParticipationAtFactFindingTipSheet.doc](#) (32 Kb HTML)  [image001.gif](#) (4 Kb HTML)

A few minor word changes you might want to consider.

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

~~A law change effective July 1, 2013 requires an employer be charged with benefits may face charges~~ to its account for failure to participate in ~~at~~ a fact-finding interview even if the employer ~~wins 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 ~~law rule~~ also allows for participation by documentation. The employer must submit detailed factual information that gives all factual information in the employer's possession concerning the worker's separation ~~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 adequate information ~~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 to be participation.
 - Information submitted after a fact-finding is over is not participation.
-

[Preview is not available (conversion excluded for this file type).]

Message: FW: Tomorrow's Meeting**Case Information:**

Message Type: Exchange
 Message Direction: External, Outbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:16 PM
 Item ID: 40860730
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: Tomorrow's Meeting

From Stephenson, Randall [IWD] **Date** Friday, October 28, 2011 9:46 AM
To rlsiniowa@yahoo.com
Cc

From: Walsh, Joseph [IWD]
Sent: Thursday, October 27, 2011 12:43 PM
To: Ackerman, Susan [IWD]; Anderson, Dan [IWD]; Coleman, Carolyn [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: Benson, Joni [IWD]
Subject: Tomorrow's Meeting

Tomorrow's meeting will begin at 1 p.m. in the Capitol View Room at 1000 East Grand Avenue. The agenda will be as follows:

1-1:30	Road Venue assignment lottery 2012
1:30-2:15	Meet Director Wahlert
2:15-2:45	Go over hearing notice for phone process (will try to send draft later today)
3:00	Adjourn

Anyone who would like to sign up for additional road venues will gain a priority in the lottery. Please be thinking about whether you would like to volunteer for additional assignments.

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

MEMO

To: IWD Director Teresa Wahlert

From: Dévon M. Lewis, ALJ II

Date: May 28, 2013

Re: Snyder stipulation

Snyder v. Iowa Dep't of Job Serv., U.S. District Court for the Southern District of Iowa, Civil Action No 80-395-C, Stipulation, September 3, 1982. [FYI, this document was signed by James Elliott on behalf of the Ottumwa office of Legal Services Corp of Iowa. He is now a Deputy Workers' Compensation Commissioner and has also worked temporarily in the UI Appeals Bureau.]

The action was brought by a class of claimants whose benefits were at risk of termination without advance written notice, or fact-finding following procedural due process requirements. Appeals Bureau hearings conducted pursuant to the Iowa Administrative Procedures Act (IAPA) in Iowa Code 17A are *excluded* from the stipulation.

The Department agreed not to make "non-monetary" (e.g. separation, notice to report) disqualifications without written notice, either an in-person fact-finding interview or waiver of the right to an in-person fact-finding interview, *and* a) clearly state the issue on a notice that may lead to termination of benefits, b) clearly explain the issue and applicable law to the claimant, c) be allowed to submit additional evidence within three business days, d) distribute Facts for Workers booklet to all benefit applicants, e) clearly state appeal rights and instructions on representatives' decisions, and f) be notified of the right to counsel and record the interview at claimant's expense, confront and cross-examine witnesses, present relevant evidence (exhibits, testimony, witnesses), notice of issues and purpose of the interview (duplicate of b above), right to inspect the claim file and obtain copies, and the right to review UI law and regulations or other authority that may apply.

Essentially, the stipulation requires the Department to provide due process, primarily clear notice, to claimants at the claim/fact-finding level as it is provided at the Appeals hearing level by the IAPA. Given technological advances since 1982, much of the notice may be in electronic form as long as there is reasonably adequate access. Overall, the bulk of the stipulation is very adaptable to a paperless claim and fact-finding system.

The most troubling part of the agreement is the in-person aspect. The Department has long since stopped providing in-person fact-finding interviews and they are rarely necessary. Certainly, with the number of claims, in-person fact-findings are not practicable and conference call, fax, e-mail and scanning technology at least partially addresses the presentation of evidence and confrontation of witnesses concern. Additional research may be necessary on this particular point but a cursory search indicates that in a probate (equity) dispute for example, absent statutory or regulatory authority for telephonic hearings, in-person testimony is required. I have not found anything addressing an equivalent to a fact-finding level proceeding. IWD Appeals in-person hearing requests are *required* by rule to be granted

in named local offices, absent distance between the parties. There is no other basis for denial of an in-person request; even security threats do not trump the in-person demand. Department rules have not kept up with technology in this regard.

Most of the areas of concern about Snyder requirements we notice at the Appeals level is with the lack of fact-finding on some issues and limitation of characters or programming of ANDS forms that limit explanation. Fact-finders could use some initial or refresher training on due process.

Please advise if I may be of further assistance.

DML

Message: Status of certain program in 2013

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: 40860763
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/21/2014 11:25:25 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Status of certain program in 2013**

From Taylor, Kelly [IWD] **Date** Friday, May 11, 2012 12:20 PM
To Mikkelsen, Paul [IWD]
Cc Wahlert, Teresa [IWD]

I've refigured carryover based on costs through April, added that to anticipated new funds, subtracted projected costs so far for 2013 and arrived at the following balances for June 30, 2013.

- State Approps, Field Operations – (\$1,105,836)This will go down once we move the RES/REA/EUC staff to 100% Wagner Peyser
- Wagner Peyser - \$1,054,119....this will go down once we move the RES/REA/EUC staff to 100% Wagner Peyser. **HOPING** we earn the \$830,000 from RES/REA/EUC!!
- Unemployment – (\$4,855,984)will probably remain relatively unchanged without further action
- Promise Jobs - \$428,825need approximately 4-5 staff added to the budget or we lose these funds
- DVOP – (\$362,895)will need to reduce the Vet positions by 3-4 to stay within budget. No more than 14 full time staff
- Trade Act - \$3,218,343This money will start being converted to Trade Act Training dollars if we don't start spending it on staffing
- Offender Re-entry - \$78,760could afford to have a 4th person, as approved in the legislation, but for ONLY one fiscal year.
- Penalty and Interest - \$2,445,533our last resort funds to cover the state approp shortfalls
- WOTC – (\$111,567)will have to move one full time position to Wagner Peyser
- Alien Labor - \$48,977may appear to be small but it means we should have a full time person on Alien Labor Certification
- UI Modernization - \$5,058,171our last resort funds to cover the UI shortfalls

I'm only hi-liting those programs that either have a shortfall problem, excessive balances or balances we may need to cover other programs. The only other program I know right now that may still have problems is the Cost Pool for Lori Adams' Workforce Admin staff. I believe it is still short of covering a couple staff, but I'm not positive about the numbers yet. There's too many sources of funds that make up that cost pool. In addition, I have budgeted Mary Woods and Jeff Chamberlin from the Penalty and Interest dollars for 2013.

Kelly R. Taylor,
Bureau Chief, Financial Management
Iowa Workforce Development
Office: 515-281-4263, Cell: 515-201-0490

MEMO

To: IWD Director Teresa Wahlert

From: Dévon M. Lewis, ALJ II

Date: May 28, 2013

Re: Welch and McCarthy cases – Part-time quit issue

McCarthy v. Iowa Emp't Sec. Comm'n, 247 Iowa 760, 76 N.W.2d 201 (1956). McCarthy worked full-time for a produce company and worked an “extra, part-time job” for a bowling alley for a “limited” period (7 or 8 weeks) and quit because “he found combined jobs too heavy.” Shortly thereafter and before requalification, the produce company laid him off. The Court held that disqualification should not apply to the *concurrent* part-time separation because the part-time work did not create the unemployment. It directed the commission to develop rules adopt rules to address charges or relief therefrom to full- and part-time employers.

Welch v. Iowa Dep't Emp't Servs., 421 NW2d 150 (Iowa Ct. App. 1988). Welch worked full-time for Oscar Mayer and was separated in May 1983. After a period of severance pay he began receiving full UI benefits in January 1984. He began part-time employment with the City of Minburn in May 1984 and began receiving partial UI benefits, still based upon his wage credits at Oscar Mayer. Welch quit the part-time work in January 1985 to move to Arizona and seek full-time employment.

The Court declined to make a distinction between a first and second benefit year entitlement. It relied heavily on the *McCarthy* rationale and said a total separation disqualification applies to the “primary” or “regular” employment that caused the original unemployment and relieving that employer would give it an “undue benefit.” It identified policy considerations to resolve the issue and held that the statute allows for a monetary incentive for unemployed workers to supplement their benefits by seeking “supplemental part-time work” and disqualification would serve as punishment. The identified legislative intent was to provide claimants an incentive to supplement their benefits with part-time work while allowing them to seek and remain available for regular full-time work and noted this allows an employee to end up with more income than if he did not work while not fearing risk of total benefit loss if quitting part-time work.

It observed the separation from Oscar Mayer continued throughout the claim and

his separation from part-time work with Minburn “changed his status from partially unemployed to totally unemployed, not from employed to unemployed.” The partial UI benefits reduced the charges to Oscar Mayer but did not remove the fact of the initial cause of unemployment. Because the part-time wage credits are removed from the base period until requalification, the part-time employer is not penalized.

Throughout the decisions the Court used or referred to phrases like “comparatively minor evening part-time job,” “sideline,” “optional part-time work,” “primary, principal, or full-time employment” and “regular full-time employment.” At no point did the Court, or other states’ courts mentioned in the decision, refer to this being a substitute for short-term or a trial period of employment, or as a mechanism to determine suitability of work. An allowance of benefits after quitting short-term, full-time employment would seem to encourage a claimant to use it as a one-sided, no-penalty trial period of employment. Iowa Admin. Code r. 871-24.25(12) provides for disqualification if an individual quits “without notice during a mutually agreed upon trial period of employment.” In fact, the Iowa Supreme Court rejected the idea that a person who is receiving unemployment insurance benefits can try out a job and then quit if the person considers the job unsuitable. *Taylor v. Iowa Dep’t of Job Serv.*, 362 N.W.2d 534 (Iowa 1985). Taylor, having existing health issues, accepted a full-time job as a jackhammer operator and quit after six days. Taylor argued disqualification would be unfair because he went the extra mile in searching for gainful employment. The Court specifically declined to carve out a judicial exception to the existing statute to give special protection to persons who were drawing UI benefits prior to accepting inappropriate employment and left that to the legislature, which has declined to amend the statute.

I have other brief arguments based upon current rules but have limited the discussion to case law. If you wish to have further analysis based upon Department rules, please advise.

DML

Message: RE: Tip Sheet properly named

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: 40860967
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Tip Sheet properly named**

From Lewis, Devon [IWD] **Date** Thursday,
June 06, 2013 10:30
AM

To Walsh, Joseph [IWD]; Hillary, Teresa [IWD]; Eklund,
David [IWD]; Wilkinson, Michael [IWD]; West, Ryan
[IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas
[IWD]

Cc Wahlert, Teresa [IWD]

 [Tips Participation.doc](#) (29 Kb HTML)

Here are my suggested changes. No criticism, just a different writing style.

From: Walsh, Joseph [IWD]
Sent: Wednesday, June 05, 2013 4:14 PM
To: Hillary, Teresa [IWD]; Lewis, Devon [IWD]; Eklund, David [IWD]; Wilkinson, Michael [IWD]; West,
Ryan [IWD]; Bervid, Joseph [IWD]; Olivencia, Nicholas [IWD]
Cc: Wahlert, Teresa [IWD]
Subject: Tip Sheet properly named

I am not a sensitive person. Feel free to critique openly. ☺

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

Tip Sheet – Important Legal Changes regarding Participating in Fact-Finding Interviews.

A contested unemployment claim has three levels of participation: (1) a fact-finding interview, (2) an appeal hearing, (3) a Board review.

Fact-finding interviews are efficient, summary proceedings where both sides of an unemployment dispute are asked to tell their story of the separation. The appeal hearing is an expedited agency case, where parties are granted the full array of due process available under the Iowa Administrative Procedures Act (IAPA).

Beginning on July 1, 2013, there will be serious consequences for employers who fail to participate in the fact-finding and then win their case on appeal. When this occurs, the consequences are: (1) The claimant does not have to repay any benefits they may have been paid as a result of the incorrect fact-finding decision, if there is no evidence of fraud. (2) The employer's account will be charged for the benefits paid.

To avoid this possibility, employers should participate in the fact-finding interview. This gives IWD the best chance to get the decision right in the first place. Participation is defined in Iowa Admin. Code rule 871-24.10. Participation means providing detailed factual information in advance of the fact-finding. The most effective means of participation is to provide live testimony by telephone at the interview from a witness with knowledge of the events that led to the separation. If there is truly no way to participate, written, detailed documents can be submitted, however, allegations of misconduct not accompanied by detailed factual information is not considered participation. Employers should understand that even if their written materials meet the definition of "participation" they may lose cases when their written information is compared to the live telephone testimony of a claimant. If the employer does not participate by telephone, it should at least provide a name and phone number for a representative who can be contacted in the event rebuttal evidence is needed from the employer.

Message: FW: you've got #4361 - have fun**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: 40860875
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached


 **FW: you've got #4361 - have fun**

From Lewis, Devon [IWD] **Date** Friday, May 03, 2013 3:25 PM
To Hillary, Teresa [IWD]
Cc

Wtf?

From: Ackerman, Susan [IWD]
Sent: Thursday, May 02, 2013 10:04 AM
To: Lewis, Devon [IWD]
Subject: you've got #4361 - have fun

This claimant argued for an hour and then I had to cut him off – he was ticked because he wanted the ff evidence and he said he called in and someone (Myra?) told him the hearings covered the same issues but different dates. Mine was the separation and yours is the A&A. I considered doing both but after I listened to him a bit, decided that wouldn't be the best case.

APLT  APPEAL CASE PHONE NUMBERS 10:02:47 05/0
 CLAIMANT NAME: DAVIES, BRYAN, R

OC DATE	REF#	APPEAL #	FILED	APLNT	DISP
02/24/2013	01	13 A UI 03711	03/28/2013	EMPLR	ACTIVE
02/24/2013	03	13 A UI 04361	04/11/2013	EMPLR	ACTIVE

Administrative Law Judge Susan Ackerman

Iowa Unemployment Insurance Appeals
 1000 East Grand Avenue

Des Moines, Iowa 50319
Phone: (515) 281-3747
Fax: (515) 242-5144
Susan.ackerman@iwd.iowa.gov

Message: FW: 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: 40860877
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Thanks and Examples**

From Lewis, Devon [IWD] **Date** Friday, May 03, 2013 4:42 PM
To Hillary, Teresa [IWD]
Cc

Haven't answered yet... he's referring to JB telling FF and claims to handle a short-term, FT employment separation as a PT quit. In my draft response I'm also referring to JB's bad advice to claims and LOs to tell Cs to file as a layoff to avoid the automatic FF trigger for VQ and DM.

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: Aliens

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:39 PM
Item ID: 40860823
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Aliens**

From Eklund, David [IWD] **Date** Monday, July 23, 2012 11:03 AM
To Lewis, Irma [IWD]
Cc

Irma,
Effective immediately STOP sending alien stuff to Mike.
It goes directly to me.
If this is not clear enough, let me know.
Thank you.

Message: Re: Aliens

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:39 PM
Item ID: 40860826
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Re: Aliens**

From Eklund, David [IWD] **Date** Monday, July 23, 2012 11:46 AM
To Lewis, Irma [IWD]
Cc

Nope, I am simply changing your process as is my prerogative..

----- Original Message -----

From: Lewis, Irma [IWD]
Sent: Monday, July 23, 2012 11:03 AM
To: Eklund, David [IWD]
Subject: RE: Aliens

It is clear. I was sending to Mike because that is who Teresa Wahlert told me to send it to...have her e-mail somewhere if you want to see it...

Irma

-----Original Message-----

From: Eklund, David [IWD]
Sent: Monday, July 23, 2012 11:03 AM
To: Lewis, Irma [IWD]
Subject: Aliens

Irma,
Effective immediately STOP sending alien stuff to Mike.
It goes directly to me.
If this is not clear enough, let me know.
Thank you.

Message: RE: Aliens

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:39 PM
Item ID: 40860828
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **RE: Aliens**

From Eklund, David [IWD] **Date** Monday, July 23, 2012 1:11 PM
To Lewis, Irma [IWD]
Cc

I thought I had covered this previously (changing the directive). With our mail delivery system we are losing multiple days going to 1000 then back to me. Mike does not even look at the stuff, and he does not have access to SAVE, nor does he want/need to. That is Fraud Investigator work, not Division Administrator work. I know it was all "to prove a point", but we have advanced beyond that.
Dave

-----Original Message-----

From: Lewis, Irma [IWD]
Sent: Monday, July 23, 2012 11:49 AM
To: Eklund, David [IWD]
Subject: RE: Aliens

I got that, it just seemed your e-mail was worded as if I had done something wrong, and I was simply following directive that I was given.

Irma

-----Original Message-----

From: Eklund, David [IWD]
Sent: Monday, July 23, 2012 11:46 AM
To: Lewis, Irma [IWD]
Subject: Re: Aliens

Nope, I am simply changing your process as is my prerogative..

----- Original Message -----

From: Lewis, Irma [IWD]
Sent: Monday, July 23, 2012 11:03 AM
To: Eklund, David [IWD]

Subject: RE: Aliens

It is clear. I was sending to Mike because that is who Teresa Wahlert told me to send it to...have her e-mail somewhere if you want to see it..

Irma

-----Original Message-----

From: Eklund, David [IWD]

Sent: Monday, July 23, 2012 11:03 AM

To: Lewis, Irma [IWD]

Subject: Aliens

Irma,

Effective immediately STOP sending alien stuff to Mike.

It goes directly to me.

If this is not clear enough, let me know.

Thank you.

Message: FW: social security numbers

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: 40860790
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: social security numbers

From Eklund, David [IWD] **Date** Monday, June 04, 2012 8:48 AM
To Lewis, Irma [IWD]
Cc

Irma,
I have been working the Social Security report since Matt left in March. Please forward all inquiries of this nature to me.
Thank you.

From: Wahlert, Teresa [IWD]
Sent: Saturday, June 02, 2012 3:58 PM
To: Wilkinson, Michael [IWD]
Cc: Eklund, David [IWD]
Subject: Re: social security numbers

Then tell her

Sent from my iPhone

On Jun 2, 2012, at 12:01 PM, "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov> wrote:

It should go directly to Dave Eklund

Sent from my iPad

On Jun 1, 2012, at 8:43 PM, "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov> wrote:

Who or where should she be sending this info to?
Teresa

Sent from my iPhone

Begin forwarded message:

From: "Lewis, Irma [IWD]" <Irma.Lewis@iwd.iowa.gov>
Date: June 1, 2012 7:19:19 AM CDT
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: FW: social security numbers

<image001.gif>

Would you please forward this to whomever is doing the social security report now; I know you said there were four people in that position, but if you told me specifically who was doing the social security report, I missed it; thanks

Irma

From: Richards, Vicki [IWD]
Sent: Thursday, May 31, 2012 3:19 PM
To: Lewis, Irma [IWD]
Subject: social security numbers

I have a claimant who filed her claim under the social security number [REDACTED], her name is [REDACTED] DOB [REDACTED]. I talked to the employer who says she never worked there. They have those wages belonging to [REDACTED]. Could you check and let me know what number is correct for [REDACTED]

Thanks,

Vicki

Vicki Richards
Work Force Advisor/ Deputy 84
Iowa Workforce Development UISC
P O Box 10332
Des Moines, Iowa 50306-0332
Phone: 515-242-0409 Fax: 515-281-4057
Email: vicki.richards@iwd.iowa.gov

Life isn't about waiting for the storm to pass, it's about learning to dance in the rain.

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: 40861721
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Participation Tip Sheet attached.**

From Bervid, Joseph [IWD] **Date** Friday, October 18, 2013 10:15 AM
To Stalker, Teresa [IWD]
Cc

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

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