

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WENDY S HARRISON
Claimant

APPEAL NO: 17A-UI-09949-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED HEALTHCARE SERVICES INC
Employer

OC: 08/27/17
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 22, 2017, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 31, 2017. The claimant participated in the hearing. Brianna Brunner, Manager of Case Management and Karen Stonebraker, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time care coordinator for United Healthcare Services from January 11, 2016 to August 22, 2017. She was discharged for failing to follow the employer's directions.

On April 1, 2017, a new member arrived and his services exceeded the waiver cap. During the first 90 days he was with the employer the claimant was expected to coordinate a new plan to get him at or near the waiver cap. On May 19, 2017, during grand rounds, there was a discussion about the member being over the waiver cap amount. The claimant was directed to have a plan to get him under the cap by June 30, 2017. The claimant made some changes to his services and instead of decreasing the amount of money and services he was receiving she increased those amounts. Rather than talking to the secondary review committee about the situation the claimant took it upon herself to approve increases in his services. The secondary review committee discusses and decides whether the employer needs to keep a member above the waiver cap as there is a state mandate not to go above the cap. Instead the claimant authorized an additional \$4,000.00 over the cap on a month to month basis. The system is set up so the secondary review committee denies the member's request to exceed the waiver cap amount and then the member can appeal the decision but the appeal cannot take place until the committee denies the request. The employer spoke to the claimant May 9, May 11, June 13, June 21, August 3, August 8, August 11, August 14 and August 16, 2017, about this case and ideas about how to get the member below the waiver cap. The claimant did not follow the specific waiver requirements given to her by Associate Director Suzanne Russell or Manager of

Case Management Brianna Brunner. The employer told the claimant the member's waiver money had to be at \$3,013.00 by July 1, 2017. The claimant allowed the member to remain at \$4,600.00 over the waiver cap for four months. The claimant failed to follow the employer's directions regarding this member and three or four other members which cost the employer a great deal of money.

On August 14, 2017, the employer gave the claimant 24 hours to come up with a plan with reductions and present it to the employer. On August 15, 2017, the claimant did not have the plan prepared and called late for the meeting and the employer made the decision to start the process to terminate the claimant's employment. On August 16, 2017, Ms. Russell, Ms. Brunner, and the director met with the claimant and she stated she understood the Iowa Code. The claimant indicated she requested the case notes but previously told the employer she read the notes. She did admit she did not follow the direction of her supervisors and failed to bring the matter to the secondary review committee. The claimant said she did not feel it would be safe to reduce the member's services. She said she knew the process but substituted her own judgment.

Between August 16 and August 22, 2017, the employer spoke to human resources and was waiting for the authorization to discharge the claimant. The employer received approval to terminate the claimant's employment August 22, 2017. The claimant never submitted a proposal to get the member under the waiver cap amount and the employer had to assign a new case manager to the member. The new case manager had to cut the member's services which could not go into effect until November 1, 2017.

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.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties

and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proving disqualifying misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1).

Despite numerous instructions from the employer, the claimant failed to bring the member at or below the waiver cap amount between April 1 and September 22, 2017. Additionally, she actually added money and services for the member increasing the amount he was over the cap during that time frame. The claimant had the ability to carry out the employer's directives but chose not to do so. Instead she admittedly substituted her judgment for that of the employer as well as state law regarding the waiver cap.

Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The September 22, 2017, reference 02, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs