

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SHARON ARTHUR**  
Claimant

**APPEAL NO. 16A-UI-07020-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APRIA HEALTHCARE INC**  
Employer

**OC: 04/17/16**  
**Claimant: Appellant (2)**

Section 96.5(7) – Severance Pay

**STATEMENT OF THE CASE:**

Sharon Arthur (claimant) appealed a representative's June 14, 2016 (reference 01) decision that concluded she was not eligible to receive unemployment insurance benefits for the 21-week period ending September 10, 2016, due to the receipt of severance pay from Apria Healthcare (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 11, 2016. The claimant was represented by Heather Carlson, Attorney at Law, and participated personally. The employer did not provide a telephone number where it could be reached and, therefore, did not participate in the hearing. Exhibit D-1 was received into evidence. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the severance pay was deducted for the correct period.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was separated on March 28, 2016. The employer offered the claimant a Severance Agreement and General Release. In exchange for her signature and severance pay, the claimant would release the employer from all claims. The claimant declined to sign the agreement and did not receive any severance pay.

The claimant established a claim for unemployment insurance benefits effective April 17, 2016. The employer opted to participate in the multistate SIDES program, and so a notification of claim was transmitted to the employer on April 22, 2016. The protest was timely filed on May 5, 2016. The protest was prepared by a third-party administrator, ADP, unemployment claims specialist, Lisa Kubot. Ms. Kubot indicated on the form under "Employer Separation Reason Comments" that the claimant received 22 weeks of severance pay at a rate of \$1,404.61 per week. In the field "Remunerations", no remunerations were specified by the employer.

## REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant did not receive severance pay and is eligible to receive unemployment insurance benefits.

Iowa Code § 96.5(5) provides:

An individual shall be disqualified for benefits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

- (1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.
- (2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this subparagraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

The claimant did not receive severance pay. Benefits are allowed, provided claimant is otherwise eligible.

**DECISION:**

The representative's decision dated June 14, 2016 (reference 01) decision is reversed. Benefits are allowed effective April 17, 2016, provided claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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