

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLY J GERBER

Claimant

APPEAL NO. 20A-UI-15428-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILIES FIRST COUNSELING SERVICES

Employer

OC: 04/05/20

Claimant: Respondent (1)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours

Iowa Code § 96.4-3 – Able and Available

Iowa Code § 96.7(2)A(2) – Partial Benefits

Iowa Code § 96.1(A)(37) – Total and Partial Unemployment

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated November 16, 2020, reference 03, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on January 25, 2020. Claimant participated personally. Employer participated by Barbara Rundle and Nicole Winther. Claimant failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The claimant worked for Families First Counselling, a base period employer, full time under the same terms and conditions as contemplated in the original contract of hire. Claimant had a Covid exposure in late August that she reported to employer. Claimant requested to quarantine. Employer granted this request, and offered claimant the opportunity to work her job telephonically. The claimant did some work from home, but worked less hours than usual as

she was not able to have full time contacts. Claimant was working a reduced caseload August 26-September 3, 2020. Claimant did have a negative Covid test on August 31, 2020.

Claimant has received state unemployment benefits in this matter of \$175.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$600.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed for the week ending September 5, 2020.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The claimant is considered partially unemployed for the week ending September 5, 2020. Benefits are allowed for that period.

DECISION:

The November 16, 2020, reference 03, decision is affirmed. The claimant is partially unemployed for the week ending September 5, 2020 and benefits are allowed, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

February 10, 2021
Decision Dated and Mailed

bab/ol