

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HARRY D CLARK
Claimant

UNITYPOINT AT HOME
Employer

APPEAL 20A-UI-11875-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/21/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from the September 14, 2020, (reference 01) unemployment insurance decision that denied benefits. After proper notice, a telephone hearing was held on November 19, 2020. Claimant participated personally. Employer was represented by Leah Rumler. The administrative law judge took official notice of the administrative records. Employer Exhibit 1 was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Does the claimant meet the definition of being considered partially unemployed?
Is the claimant able to work and available for work effective June 21, 2020?
If so, is the employer's account liable for potential charges?

FINDINGS OF FACT:

Claimant's administrative records establish that he filed his original claim for State of Iowa unemployment insurance benefits effective June 21, 2020. Claimant's weekly benefit amount (WBA) is \$481.00.

Claimant is a senior rehab specialist, earning \$32.59 per hour. Claimant applied for benefits in response to employer's mandated furlough. Between April 26, 2020 and August 1, 2020, employees were required to reduce hours by one work day every two weeks/pay period. (Instead of working 10 days at 8 hours, claimant would work only 9 days over the two weeks instead, or 36 hours each week, instead of 40.) Claimant was not compensated for the one day reduction unless he chose to use PTO for the day.

He reported gross wages earned for each week between June 20, 2020, and July 25 2020. Claimant was furloughed on June 29, July 13 and July 20, 2020 and did not use PTO to cover the hours missed.

Claimant worked full-time, forty hours per week for the weeks ending June 27, and July 11, 2020. Claimant worked thirty-two hours each week for the weeks ending July 4, July 18 and July 25, 2020. Claimant's gross wages for a thirty-two hour work week would be \$1,042.88.

Because his gross weekly wages exceeded his weekly-benefit amount plus fifteen dollars, he did not receive any unemployment insurance benefits for those weeks.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", subparagraph (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".

(emphasis added).

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

Iowa Code § 96.7(2)a(2)a provides:

Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the *individual is receiving the same employment from the employer that the individual received during the individual's base period*, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(emphasis added).

The administrative law judge recognizes the claimant has filed his current claim due to hardship related to the COVID-19 pandemic. Claimant worked all available hours, but was required to reduce his hours by one work day for every bi-weekly pay period.

For the weeks ending June 27, and July 11, 2020: Claimant worked full-time hours and therefore was removed from the labor market to an extent that he would be eligible for benefits. See Iowa Admin. Code r. 871-24.23(23). Therefore, benefits are denied.

For the weeks ending July 4, July 18 and July 25, 2020: In this case, the claimant earned wages in excess of his weekly-benefit amount, plus fifteen dollars for the weeks listed above. Because the claimant has earned wages in excess of his weekly-benefit amount, plus fifteen dollars, he cannot be considered partially unemployed for those weeks. Iowa Code 96.19(38) and Iowa Admin. Code r. 871-24.18. Benefits are denied.

DECISION:

The unemployment insurance decision dated September 14, 2020, (reference 01) is affirmed. The claimant is not able and available for work or partially unemployed effective June 20, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

November 30, 2020
Decision Dated and Mailed

jlb/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:
www.iowaworkforcedevelopment.gov/pua-information