

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLA R GUNDERSON
Claimant

APPEAL NO. 11A-UI-10802-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELDORA & NEW PROVIDENCE COMM
Employer

OC: 04/10/11
Claimant: Appellant (4/R)

Iowa Code § 96.4(5)b – Reasonable of Assurance of Working for an Education Institution

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 12, 2011 determination (reference 03) that held her ineligible to receive benefits as of June 26, 2011, because she had a reasonable assurance of returning to work for an education institution in the 2011-2012 school year. The claimant participated in the hearing. Cindy Bierle, the business manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is eligible to receive benefits between academic school years based on wage credits she earned from non-educational employers.

ISSUE:

Is the claimant eligible to receive benefits between academic school years if she has reasonable assurance of returning to work for an education institution in the 2011-2012 school year?

FINDINGS OF FACT:

In August 2009 the employer, an educational institution, hired the claimant to work as a musical accompanist during the school year. The claimant works about ten hours a week during the school year for the employer. The employer hired the claimant for this job again during the 2010-2011 school year and the 2011-2012 school years. The claimant is again working as a part-time accompanist for the employer in the current school year.

Based on a benefit year that was established during the week of April 10, 2011, the claimant's base period employers, in addition to the employer, are Supper Club of Union, Inc. and McDonald Forr, Inc. (H & R Block).

REASONING AND CONCLUSIONS OF LAW:

Benefits based on service in any other capacity (not instructional, research, or principal administrative) for an education institution, including service in or provided to or on behalf of an educational institution shall not be paid for any week of unemployment that begins during the period between two successive academic years or terms, if the individual performs the service in the first academic year and has reasonable assurance of performing services in a second academic year. Iowa Code § 96.4(5)b. This law covers cooks, custodians, and childcare providers, associates and pharmacy technicians. Iowa Code § 96.4-5(a) applies to teachers and administrators. Iowa Code

§ 96.4-5(b) allows for retroactive benefits for the summer months if the school does not allow the employee to return to work in the next school year. Since the claimant has base period employers that are not educational institutions, the claimant is eligible to receive benefits based on wage credits she earned from non-educational base period employers between academic school years.

The evidence establishes the claimant had reasonable assurance of returning to work for the employer as a part time employee in the 2011-2012 school year. Since the claimant has other base period employers who are not education institutions, the claimant is eligible to receive benefits between academic school years based on wages from these non-education institution employers.

This matter will be remanded to the Claims Section to determine the amount of weekly benefits the claimant is eligible to receive based on non-education employers. This decision considered the base period associated with the claim established during the week of April 10, 2011.

(Note – at the hearing, the claimant asked a question about Option A. The administrative law judge incorrectly explained Option A to the claimant. The following is the guideline for Option A. This option allows a claimant to be paid Emergency Unemployment Compensation (EUC) benefits on an old claim prior to a new claim paying if the EUC benefit amount is \$100 or 25 percent more than the new weekly benefit amount. The benefit year ending date on a claim must be July 25, 2010 or later to qualify. Also, old claims must be expired to pay on Option A.

Even though the claimant asked a question about option A, this issue was not an issue to be addressed at the hearing. If the claimant wants to pursue the possibility of Option A, she must contact her local Workforce office.)

DECISION:

The representative's August 12, 2011 determination (reference 03) is modified in the claimant's favor. As of June 26, 2011, the claimant had reasonable assurance of returning to work for the employer in the 2011-2012 school year. If her only base period wages were from education institutions, she would NOT be eligible to receive benefits between academic school years or for the summer months. The claimant, however, has employers in her base period (based on the claim established the week of April 10, 2011) that are not education institutions. Therefore, she is eligible to receive benefits as of June 26, 2011, based on wages she earned from non-education institution employers. The amount of weekly benefits the claimant is eligible to receive as of June 26, 2011, until school starts is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw