

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MEGAN GUSTAFSON**  
Claimant

**APPEAL NO: 16A-UI-08319-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 07/03/16**  
**Claimant: Appellant (4)**

871 IAC 23.43 (4) a – Partial Unemployment  
Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 28, 2016, 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 August 18, 2016. The claimant participated in the hearing. Teri Osborn, Administrator and Caroline Semer, Employer Representative, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is eligible for partial unemployment benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time evening dietary aide for Care Initiatives on March 9, 2016, and continues to be employed in that capacity with no change in her hours or wages. The claimant was employed as a full-time social services and activities employee for Manor Care/Heartland from February 9, 2016 to July 6, 2016. She was laid off from that position due to staff reductions.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed.

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", 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 Admin. Code r. 871-23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

The claimant was hired as a part-time evening dietary aide. There has been no separation from her part-time employment and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire. The claimant is disqualified from receiving benefits based on her part-time employment with this employer. However, she has a qualifying separation from her full-time position with Manor Care/Heartland and is eligible for benefits based on that separation, provided she is otherwise eligible.

**DECISION:**

The July 28, 2016, reference 02, decision is modified in favor of the claimant. The claimant is partially unemployed within the meaning of the law. Benefits are allowed, provided the claimant is otherwise eligible. The account of this part-time employer shall not be charged.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs