

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RENEE D PULLIAM**  
Claimant

**APPEAL NO. 15A-UI-08883-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IA DEPT OF HUMAN SERVICES/  
CLARINDA – MH**  
Employer

**OC: 07/05/15**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(5)(c) - Pension

**STATEMENT OF THE CASE:**

Renee Pulliam filed a timely appeal from the July 30, 2015, reference 01, decision that denied benefits for the period of July 12, 2015 through October 31, 2015, based on an Agency conclusion that she received a lump sum pension payment that was deductible from her unemployment insurance benefit eligibility. After due notice was issued, a hearing was held on August 27, 2015. Ms. Pulliam participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. The hearing in this matter was consolidated with the hearing in Appeal Number 15A-UI-08884-JTT. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to Ms. Pulliam. Department Exhibits d-1 and D-2 were received into evidence.

**ISSUE:**

Whether Ms. Pulliam has received a pension that is deductible from her unemployment insurance benefits. If so, whether Workforce Development correctly deducted the pension.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Renee Pulliam was employed the Iowa Department of Human Services on a full-time basis from 2006 until she separated from the employment on June 30, 2015. During the employment Ms. Pulliam and the employer both contributed to an IPERS retirement account. The employer made 60 percent of the total contribution and Ms. Pulliam made 40 percent of the contribution. In connection with her separation from the employment, Ms. Pulliam contacted IPERS and requested a lump sum payout of the IPERS benefits. The lump sum payout of \$26,988.91 represented both Ms. Pulliam's contribution to the fund and the employer's contribution to the fund. The lump sum, minus tax withholding, was paid to Ms. Pulliam on July 14, 2015.

Ms. Pulliam established a claim for unemployment insurance benefits that was effective July 5, 2015. Workforce Development calculated Ms. Pulliam's weekly benefit amount at \$431.00. Ms. Pulliam received that amount in weekly benefits for the week that ended July 18, 2015 and July 25, 2015. The total amount disbursed for those two weeks was \$862.00. DHS is the sole base period employer for purposes of Ms. Pulliam's unemployment insurance claim.

When Ms. Pulliam made her weekly unemployment insurance claim for the week ending July 18, 2015, she reported that she was receiving a pension. In response to that report, Workforce Development mailed an "Unemployment Insurance Letter of Inquiry" to Ms. Pulliam on July 22, 2015. A Workforce Development representative subsequently took the lump sum amount reported by Ms. Pulliam, as well as working knowledge concerning IPERS, to redetermine Ms. Pulliam's unemployment insurance benefit eligibility in light of the lump sum pension payment. The Agency representative multiplied the gross total lump sum payment, \$26,988.91, by .6 to calculate the employer's 60 percent contribution to the benefit and arrived at \$16,193.55 as the amount that should be deducted from Ms. Pulliam's unemployment insurance benefit eligibility. The Agency representative then looked to Ms. Pulliam's average weekly wage during her highest earning base period quarter. Her highest earning base period quarter was the fourth quarter of 2014. Her average weekly wage during that quarter was \$989.55. The Agency representative then apportioned \$989.55 of the \$16,193.55 to each week of Ms. Pulliam's claim, beginning with the week that ended July 18, 2015, the week during which Ms. Pulliam received the lump payment. The Agency representative concluded that the \$16,193.55 employer contribution to the lump sum pension payment represented 16 weeks of Ms. Pulliam's \$989.55 average weekly wage, with a remainder of \$360.55 to be apportioned to a 17th week. The claims deputy concluded that the \$989.55 in pension pay apportioned to each of the benefit weeks between the week ending July 18, 2015 and the week ending October 31, 2015 exceeded Ms. Pulliam's \$431.00 weekly unemployment insurance benefit amount, thus reducing the unemployment insurance benefit eligibility for each of those weeks to zero. The Agency representative concluded that the remainder, \$360.55 would be deductible from the benefit week that would end November 7, 2015.

#### **REASONING AND CONCLUSIONS OF LAW:**

The Federal Unemployment Tax Act (FUTA), 26 U.S. C. § 3301, creates a cooperative federal-state program of unemployment compensation (UC) to unemployed workers. FUTA allows states discretion in setting up their unemployment insurance system but also establishes certain federal standards that a state must satisfy in order for employers in a state to receive credit against their Federal unemployment tax. See 26 U.S.C. § 3304(a). The standard at issue in this case, § 3304(a)(15), FUTA, requires that unemployment compensation payable to a claimant be reduced for any week "which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual," provided (a) the payment "is under a plan maintained (or contributed to) by a base period employer or chargeable employer," and (b) "the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment" Iowa responded to the provisions of § 3304(a)(15), FUTA, by enacting Iowa Code §96.5(5)(c), which enacts all of the required and optional clauses of § 3304(a)(15), FUTA. Iowa Code § 96.5(5)(c) provides that an individual shall be disqualified for benefits for any week with respect to which the individual is receiving or has received payment in the form of any of the following:

c. 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. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, 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.

In interpreting statutes, the words of the statute should be given their plain and generally accepted meaning. Judges should interpret statutes to avoid interpretations that produce strained, unreasonable or absurd results. Iowa Federation of Labor v. IDJS, 427 N.W.2d 443, 449 (Iowa 1988). All parts of a statute are to be considered together without giving undue importance to a single or isolated part. The ultimate goal is to ascertain and give effect to the intention of the lawmaking body. The language used in the statute and the purpose for which it was enacted must be examined. Iowa Beef Processors, Inc. v. Miller, 312 N.W.2d 530, 532 (Iowa 1981).

Applying these principles to the statute in question, the words of the statute are not clear and unambiguous and it is necessary to interpret what the statute means. First, the statute itself does not appear to apply to lump-sum payments, since it refers to retirement pay or "other similar periodic payment." The rule likewise refers to retirement pay or "other similar periodic payment." 871 IAC 24.13(3)e. By definition, a lump-sum payment is a "non-periodic payment." The United State Department of Labor (DOL) has interpreted the federal law as not requiring the deduction of lump-sum pension payments using this reasoning. Because § 3304(a)(15), FUTA, sets minimum requirements, states are free to treat a lump-sum payment as a "similar periodic payment" and have the option of deducting it in the week it is paid, the week following the claimant's last week of work, or allocating it over a number of weeks following the last week of work. Unemployment Insurance Program Letter No. 22-87, Change 1 (U.S. Department Of Labor (DOL), June 19, 1995). There is no provision of Iowa law—either by statute or rule—that explicitly provides for the deduction of a non-periodic lump-sum retirement or pension payment.

Iowa Workforce Development Benefits Bureau has apparently used 871 IAC 24.13(1), which sets forth the procedures for deducting various payments from benefits, as providing the authority and the formula for deducting lump-sum retirement or pension payment. That rule establishes a formula of dividing a lump sum by a claimant's average weekly wage from the highest quarter of earnings in the base period to determine how many weeks the claimant would be ineligible, if the employer has not designated the period the payment is allocated to and the representative cannot otherwise determine the period. Since 871 IAC 24.13(1) states that any payments defined under rule 871 IAC 24.13(3)—which includes pension payment—shall be deducted using the procedures in the rules until the payment is exhausted, the Benefits Bureau reasonably interpreted the statute and the rule as applying to lump-sum pension payments. The Benefits Bureau also appropriately reduced the amount of the deduction to reflect the employer's 60 percent contribution to the IPERS benefit. The Benefits Bureau appropriately concluded that pension deduction rendered Ms. Pulliam ineligible for benefits for the period of July 12, 2015 through October 31, 2015 and that \$350.55 (rounded to \$351.00) should be deducted from Ms. Pulliam's unemployment insurance benefit eligibility for the week ending November 7, 2015.

**DECISION:**

The July 30, 2015, reference 01, decision is affirmed. The claimant is ineligible for benefits for the period of July 12, 2015 through October 31, 2015, based on the deduction of the lump sum pension from her unemployment insurance benefit eligibility. In addition, \$350.55 (rounded to \$351.00) shall be deducted from the claimant's unemployment insurance benefit eligibility for the week ending November 7, 2015.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs