

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN S LESLIE
Claimant

APPEAL NO. 07A-UI-04077-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HCM INC
Employer

**OC: 07/09/06 R: 01
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

HCM, Inc. filed an appeal from a representative's decision dated April 10, 2007, reference 02, which held that no disqualification would be imposed regarding Susan Leslie's separation from employment. After due notice was issued, a hearing was held by telephone on May 8, 2007. Ms. Leslie participated personally. The employer participated by Richard Tischer, Administrator.

ISSUE:

At issue in this matter is whether Ms. Leslie was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Leslie was employed by HCM, Inc. from May 13, 2006 until March 16, 2007. She was employed full time as minimum data set coordinator at Colonial Manor of Anita. She was discharged for falsifying a company document.

The Medicare program allows an individual to have 100 days of skilled nursing care. The 100 days includes stays in a hospital or a skilled nursing facility. The individual, and/or the individual's family, is entitled to at least three day's notice as to when the 100 days will be exhausted. On or about March 8, Ms. Leslie discovered that a resident's 100 days were exhausted on March 3. She completed a Medicare form indicating the resident would be discharged from skilled care effective March 3, 2007. She dated the form February 28, 2007 and asked the resident's family to sign and date the form with a February 28, 2007 date. The falsification came to the employer's attention on March 9 and Ms. Leslie was suspended on March 12. During an investigation of the matter, the employer discovered that there were other documents that had not been sent to families but should have been. Ms. Leslie was notified of her discharge on March 16, 2007.

Ms. Leslie filed an additional claim for job insurance benefits effective March 11, 2007. She was paid \$305.00 in benefits for the week ending March 17, 2007. She received \$379.00 for each of the eight weeks ending May 12, 2007.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Leslie was discharged after she deliberately and intentionally falsified a company document. This was not a matter in which she placed an incorrect date on the form because she misread the calendar or was mistaken as to the date. She indicated that paperwork had been provided to a resident's family on February 28 when it had not been provided on that date. Her falsification was intended to give the appearance that the family had received timely notice that Medicare benefits were going to be exhausted. Her conduct was clearly contrary to the type of behavior the employer had the right to expect.

The employer had the right to expect that facility documents would be completed correctly and accurately. This is especially true with respect to forms that might be reviewed by outside agencies, such as the Medicare program or the Iowa Department of Inspections and Appeals. Ms. Leslie's deliberate falsification of documents compromised the integrity of the employer's record-keeping. Her conduct constituted a substantial disregard of the employer's interests and standards. For the reasons cited herein, the administrative law judge concludes that misconduct has been established. Accordingly, benefits are denied.

Ms. Leslie has received a total of \$3,337.00 in job insurance benefits since filing her additional claim effective March 11, 2007. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated April 10, 2007, reference 02, is hereby reversed. Ms. Leslie was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Leslie has been overpaid \$3,337.00 in job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css