

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KIMBERLY K HALSTEAD
Claimant

MERCY MEDICAL CENTER
Employer

APPEAL 19A-UI-08558-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/06/19
Claimant: Appellant (2)

Iowa Code § 96.5(5) – Deductions from Benefits
Iowa Admin. Code r. 871-24.13 – Fully Deductible Payments from Benefits

STATEMENT OF THE CASE:

Kimberly Halstead (claimant) filed a timely appeal from the October 28, 2019 (reference 02) decision that found claimant ineligible to receive unemployment insurance benefits effective with the week ending October 12, 2019. Claimant was determined to be ineligible because her weekly workers' compensation temporary disability payment was fully deductible from and greater than her weekly unemployment insurance benefit.

After due notice was issued, a hearing was held by telephone conference on November 21, 2019 at 9 a.m. Claimant participated personally. Mercy Medical Center (employer) participated through Leave of Absence Administrator Holly Thompson. The administrative law judge took notice of the unemployment insurance benefits information system.

ISSUE:

Is the claimant receiving deductible workers' compensation benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed by employer as a full-time LPN beginning on May 19, 2014. She suffered a work-related injury on February 26, 2018. She received temporary total disability (TTD) workers' compensation benefits beginning April 15, 2019 and ending July 24, 2019. She then began receiving permanent partial disability (PPD) workers' compensation benefits starting July 25, 2019. Those payments are in the amount of \$525.08 and will continue for 64 weeks for a total of \$33,605.12. She was separated from employer on September 30, 2019.

Claimant's weekly unemployment insurance benefit amount is \$500.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge REVERSES the October 28, 2019 (reference 02) decision that found claimant ineligible to receive unemployment insurance benefits effective with the week ending October 12, 2019.

Iowa Code section 96.5(5) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) 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 where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Admin. Code r. 871-24.13(3)d provides:

(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

d. Workers' compensation, **temporary disability only**. The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which such payment is paid.

Only TTD workers' compensation benefits are fully deductible from a claimant's weekly unemployment insurance benefits. The IWD fact-finding decision determined that effective with the week ending October 12, 2019, claimant was ineligible to receive weekly unemployment insurance benefits because she was receiving fully deductible workers' compensation benefits in an amount greater than her \$500.00 weekly benefit amount. However, the evidence shows claimant was in fact receiving PPD workers' compensation benefits beginning July 25, 2019 and continuing thereafter. Because those PPD payments are not fully deductible from her weekly unemployment insurance benefit amount, she is not ineligible to receive unemployment benefits based on her receipt of those PPD payments.

DECISION:

The October 28, 2019 (reference 02) decision that found claimant ineligible to receive unemployment insurance benefits effective with the week ending October 12, 2019 is REVERSED. Claimant is eligible to receive benefits, so long as she is otherwise eligible.

Andrew B. Duffelmeyer
Administrative Law Judge

Decision Dated and Mailed

abd/scn