

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELINE P PRINCE
Claimant

APPEAL NO. 12A-UI-13414-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SERVICES
Employer

**OC: 11/05/12
Claimant: Appellant (1)**

Section 96.5-5 – Other Compensation

STATEMENT OF THE CASE:

Angeline Prince (claimant) appealed a representative's November 5, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits from her work with Heartland Employment Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 10, 2012. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant qualifies to substitute workers' compensation benefits as wage credits on his claim.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant's base period of employment was from the third quarter of 2011 through the second quarter of 2012. The claimant did not receive any wages or workers' compensation for total temporary disability during this time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant can not use workers' compensation benefits as wage credits on this unemployment claim.

Iowa Code § 96.5(5) provides:

An individual shall be disqualified for benefits:

5. Other compensation. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:
 - a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

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

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 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, 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.

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", "b", or "c", 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.

871 IAC 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 the payment is paid.

When a claimant receives workers' compensation during three or more calendar quarters of the base period of her claim, the claimant can substitute calendar quarters before the claimant's base period. The claimant did not receive workers' compensation for total temporary disability during three or more calendar quarters in the claimant's current base period. As such the claimant's request to have her claim redetermined by substituting calendar quarters before her base period is denied.

DECISION:

The representative's November 5, 2012 decision (reference 01) is affirmed. The claimant's request to have her claim redetermined by using workers' compensation benefits as wage credits on this unemployment claim is denied.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs