

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNA N WILKINSON
Claimant

APPEAL 20A-UI-09185-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 03/22/20
Claimant: Appellant (4)

Iowa Code § 96.19(18)g(6) – Employment - Student
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On July 27, 2020, the claimant filed an appeal from the July 16, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 18, 2020. Claimant participated. Employer participated through human resource business analyst Jessica Wade.

ISSUES:

Is the claimant eligible for benefits based upon work/study wages as a student?
Were the wages paid by the school for insured work?
Is the claimant able to and available for work effective March 22, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was a full-time student at employer (The University of Iowa) during spring 2020. Claimant started a job with employer on a part-time basis on March 4, 2020. Claimant worked eight hours per week as a unit assistant in the emergency department at the University of Iowa Hospitals and Clinics. Employer considered claimant to be a student-employee and did not pay unemployment insurance taxes on her wages. Claimant's last day of work with employer was March 25, 2020.

Claimant also has a job working 20-30 hours per week at a restaurant. The restaurant closed at the end of March 2020, due to the COVID 19 pandemic and reopened for takeout services in May 2020. Claimant was able to and available to work available hours at the restaurant effective March 22, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.19(18)g(6), (7), and (8) provides:

g. The term "employment" shall not include:

(6) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university or by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployment insurance.

(7) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution, which combines academic instruction with work experience, if the service is an integral part of the program and the institution has so certified to the employer, except that this subparagraph does not apply to service performed in a program established for or on behalf of an employer or group of employers.

(8) Service performed in the employ of a hospital if such service is performed by a patient of the hospital.

Iowa Code section 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 96.1A, subsection 38, paragraph "b", subparagraph (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".

In this case, the claimant was a student employee for employer. Therefore, the wages she earned with the employer were not insured and her employment status with employer is not relevant for purposes of determining whether she is eligible for unemployment insurance benefits. That issue is moot and will not be discussed further.

Claimant has established she was unemployed or partially unemployed with her insured employer since March 22, 2020, and is able to and available for work. That employer has not protested the claim.

In summary, claimant is eligible for unemployment insurance benefits and this employer will not be charged.

DECISION:

The July 16, 2020, (reference 01) unemployment insurance decision is modified in favor of claimant. The claimant was a student while employed and the wages she earned with this employer are not insured. Her employment status with this employer is moot. Claimant is able to and available for work and is eligible for benefits based on other insured wages in her base period. Benefits are allowed and this employer will not be charged.



Christine A. Louis
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September 22, 2020
Decision Dated and Mailed

cal/scn