

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SANDRA K HART
Claimant

APPEAL 21A-UI-09218-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/11/20
Claimant: Appellant (4R)**

Iowa Code § 96.5(5)c – Receipt of Pension

STATEMENT OF THE CASE:

On April 1, 2021, Sandra Hart (claimant/appellant) filed an appeal from the unemployment insurance decision dated March 26, 2021 (reference 02) that determined claimant's monthly pension payments would be deducted from weekly benefits effective October 11, 2020.

After due notice was issued, a hearing was held by telephone conference on June 17, 2021. Claimant participated personally. Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUE:

Is claimant receiving pension payments that are deductible from benefits?

FINDINGS OF FACT:

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

Claimant last performed work for employer on July 29, 2020. Claimant began receiving pension payments effective December 1, 2020. This included a payment of \$253.70 each month for the remainder of her life, as well as a supplemental allowance of \$106.47 each month until age 62. Claimant will reach age 62 on September 12, 2021. Until that time, the total pension payment will be \$360.17 per month. Claimant did not contribute to the pension plan. Claimant's weekly benefit amount (WBA) is \$493.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated March 26, 2021 (reference 02) that determined claimant's monthly pension payments would be deducted from weekly benefits effective October 11, 2020 is MODIFIED in favor of appellant.

Iowa Code section 96.5(5) provides:

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:

...

(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, if an individual's benefits are reduced due to the receipt of a payment under this subparagraph, 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.

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)e 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:

e. Pension, retirement, annuity, or any other similar *periodic payment* made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced by that portion of the payment which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan. (Emphasis added.)

Claimant's monthly pension payment shall be prorated to a weekly amount and deducted 100 percent from her weekly benefit payments, as claimant did not contribute to the pension plan. This deduction shall begin with the week ending December 5, 2020, as she did not begin receiving pension payments until that month. The weekly deduction shall be prorated based on a payment of \$360.17 per month through the week ending September 4, 2021. At that time the weekly deduction shall be prorated based on a payment of \$253.70 per month.

DECISION:

The decision dated March 26, 2021 (reference 02) that determined claimant's monthly pension payments would be deducted from weekly benefits effective October 11, 2020 is MODIFIED in favor of appellant. The deductions as set forth above shall not begin until the week ending December 5, 2020.

REMAND:

This matter is REMANDED to the department to determine the prorated weekly deduction amounts consistent with the decision herein, to determine whether claimant has been underpaid or overpaid benefits due to the weekly deductions, and for issuance of any appropriate decisions accordingly.



Andrew B. Duffelmeyer
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June 30, 2021
Decision Dated and Mailed

abd/mh