

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID B VORM**  
Claimant

**APPEAL NO. 10A-UI-13232-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BROADLAWNS MEDICAL CENTER**  
Employer

**OC: 08/22/10**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

David Vorm filed an appeal from a representative's decision dated September 17, 2010, reference 01, which denied benefits based on his separation from Broadlawns Medical Center (BMC). After due notice was issued, a hearing was held by telephone on December 20, 2010. Mr. Vorm participated personally and was represented by Thomas Foley, Attorney at Law. Exhibit A was admitted on Mr. Vorm's behalf. The employer did not respond to the notice of hearing.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Vorm was employed by BMC from June 6, 1981 until August 20, 2010. He was last employed full time as a residential treatment worker. He was discharged for giving incorrect medications.

Mr. Vorm worked in a group home setting. One of his responsibilities was to administer medications to residents. The residents' photos are placed in the medication book so that workers can be sure they are administering the medication to the correct resident. Mr. Vorm received a written warning in February of 2010 after he gave the wrong medication to a resident. His discharge was prompted by the fact that he again administered the incorrect medication to a resident on August 20, 2010. He had "pre-set" the medications, a practice the staff had been warned against. He was discharged the same day. The above matters were the sole reason for the discharge.

The employer has written policies regarding medication errors. Policy No. P-0926 states in part: "While staff remains accountable for errors made, it is the practice of the organization to handle the errors on a non-punitive basis."

**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). Mr. Vorm was discharged as a result of two medication errors. Both incidents involved him giving medication to the incorrect resident. The employer posted the residents' pictures in the medication book to avoid such errors. Had Mr. Vorm been utilizing the book in February of 2010, he would have been able to immediately recognize that he was giving the medication to the wrong individual.

In spite of the warning he received in February, Mr. Vorm again gave medication to the incorrect resident on August 20. Moreover, he "pre-set" the medications on August 20, which was a practice workers had been admonished not to use. The pre-setting may have contributed to the error as it was not within the step-by-step instructions given for medication administration. The administrative law judge appreciates that it may have been busy at the group home on the morning on August 20. It was Mr. Vorm's responsibility to not allow others to rush him to the extent that he could not perform his job as expected. He did not use due care in administering medications on August 20.

The administration of medications to the incorrect person has the potential of jeopardizing that individual's health and well-being. Although Mr. Vorm did not intentionally give the incorrect medications, he was negligent on both occasions identified herein. Two instances of negligence within six months are sufficient to establish negligence to such a degree that it amounted to a substantial disregard of the employer's standards and interests. This conclusion is based primarily on the fact that the negligent acts could have resulted in harm to residents in the care of BMC. The employer would have been legally liable if a resident was harmed as a result of the errors. Mr. Vorm's conduct also had the potential of jeopardizing the employer's license to operate the group home.

Mr. Vorm relies on the employer's policy to handle medication errors on a "non-punitive basis." The policy also states that the staff remains accountable for the errors. Mr. Vorm was held accountable in February through a written warning. He knew at that point that his continued employment was in jeopardy. The employer held him accountable for his second error by discharging him. The administrative law judge is not inclined to read the employer's policy as allowing an individual committing repeated medication errors to continue in the employment indefinitely. For the reasons cited herein, the administrative law judge concludes that misconduct has been established by the evidence. Accordingly, benefits are denied.

**DECISION:**

The representative's decision dated September 17, 2010, reference 01, is hereby affirmed. Mr. Vorm was discharged by BMC for disqualifying misconduct. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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