

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMMIE S MEYERS
Claimant

APPEAL 20A-UI-08936-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES IND COMMUNITY SCH DIST
Employer

OC: 05/31/20
Claimant: Appellant (1)

Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

On July 27, 2020, Tammie Meyers (claimant/appellant) filed a timely appeal from the July 17, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 31, 2020 based on a finding that claimant had reasonable assurance of employment for the next year.

After due notice was issued, a telephone conference hearing was held on September 11, 2020. Claimant participated personally. Des Moines Ind Community Sch Dist (employer/respondent) participated through Benefits Specialist Rhonda Wagoner. HR Manager Joy Linquist and Director of Transportation Lashone Mosley participated as witnesses for employer.

Official notice was taken of the administrative record.

ISSUE:

Is the claimant eligible for benefits between academic years or terms?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer on September 13, 1999. Claimant is still employed there as a full-time academic-year school bus driver. This employment runs for approximately nine months, from the beginning of the academic year in the fall and continuing through the end of the academic year in late spring.

Claimant is not employed during the spring, summer, and fall breaks. In the past, work has been available to claimant each summer. However, no work was available this summer due to the pandemic. This summer employment is separate from claimant's regular, full-time bus driver position.

Claimant has returned to work for employer each fall for the last approximately 20 years. It is assumed in claimant's area of employment that work will be available and the employee will return

to work at the end of each summer break, so long as the employee does not quit and the employer has not discharged the employee. Claimant did not quit and the employer did not discharge her. While there was some uncertainty this year about when specifically the school year would begin, claimant expected she would return to work in the fall. She recently returned to her normal, full-time employment with employer at the beginning of the academic term.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the July 17, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 31, 2020 based on a finding that claimant had reasonable assurance of employment for the next year is **AFFIRMED**.

Iowa Code section 96.4(5)a provides:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.1A, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

b. Benefits based on service in any other capacity for an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, if the individual performs the services in the first of such academic years or terms and has reasonable assurance that the individual will perform services for the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.


c. With respect to services for an educational institution in any capacity under paragraph "a" or "b", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. For purposes of this subsection, "educational service agency" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

Claimant is not eligible for benefits during the summer because the benefits are based on service in employment in a nonprofit organization or government entity; she performed services in the prior academic year; and had reasonable assurance she would perform services in the subsequent academic year. While the claimant has performed work for employer in prior summers, that work was separate from her normal, full-time position during the academic year, and no such work was available this year.

DECISION:

The July 17, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 31, 2020 based on a finding that claimant had reasonable assurance of employment for the next year is AFFIRMED. Claimant is not eligible for benefits between academic years or terms.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

September 14, 2020
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.