

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

APRIL DEPRIEST
Claimant

WATERLOO COMMUNITY SCHOOL DISTRI
Employer

APPEAL 20A-UI-12162-CL-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 07/05/20
Claimant: Appellant (4)

Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

On October 5, 2020, the claimant filed an appeal from the September 29, 2020, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 30, 2020. Claimant participated. Employer did not register for the hearing and did not participate.

ISSUE:

Does the claimant have reasonable assurance of continued employment in the next school term or year?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in February 2017 as a substitute para-educator.

At the end of the 2019-2020 school year, claimant remained on employer's substitute list. Claimant has worked for employer as a substitute teacher during the 2020-2021 school year, until mid-November 2020, when employer began holding classes virtually due to the COVID 19 pandemic.

Claimant has other wages in her base period that would make her monetarily eligible for unemployment insurance benefits. However, on October 30, 2020, Iowa Workforce Development issued a reference 01 unemployment insurance decision denying claimant benefits based on her employment status with Exceptional Persons Inc. and claimant has not yet appealed that decision.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.4(5)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in § 96.19, 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.

Iowa Admin. Code r. 871-24.51(6) provides:

School definitions.

(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

Iowa Admin. Code r. 871-24.52(6) provides:

Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code § 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

In this case, the claimant had reasonable assurance of returning to her work as a substitute for employer. Therefore, she is not eligible for benefits based on her employment status with this employer and employer's account will not be charged. Claimant does have other non-educational institution wage credits in the base period, and is monetarily eligible according to base period wages. However, claimant will need to appeal the decision issued on October 30, 2020, regarding her employment status with Exceptional Persons Inc. in order to be allowed regular unemployment insurance benefits under state law.

DECISION:

The September 29, 2020, (reference 02) decision is modified in favor of the appellant. The claimant does have reasonable assurance of returning to work the following academic year or term but she has other wages in the base period. Benefits may be allowed, provided she successfully appeals the October 30, 2020, unemployment insurance decision that denies benefits based on claimant's employment status with Exceptional Persons Inc. This employer will not be charged for benefits.



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December 8, 2020
Decision Dated and Mailed

cal/mh