

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DARLENE V SIBLEY
Claimant

APPEAL NO: 09A-UI-17130-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HILLCREST FAMILY SERVICES
Employer

OC: 07/20/08
Claimant: Respondent (2/R)

Section 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

The employer appealed a representative's November 6, 2009 decision (reference 03) that held the claimant eligible to receive benefits as of June 21, 2009, because her hours had been reduced. A hearing was held on December 17, 2009. The claimant participated in the hearing. Julie Heiderscheit appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant have reasonable assurance of returning to work for an educational institution?

FINDINGS OF FACT:

The claimant began working for the employer on August 24, 1998. She works as a full-time teacher associate during the school year - the third week of August through the first week of June. During the summer the claimant works on part-time assignments for the employer.

The employer operates an on-campus school for students. Some of the students are from the employer's residential facility operated for youths with behavioral problems. The Dubuque Community School District also places students with learning difficulties who need a more structured learning environment at the employer's facility. Fifty percent of the students are from the Dubuque School District. Dubuque Community School District reimburses 100 percent for the cost of providing services to its students. Other school districts who have students attend the employer's school also reimburse the employer.

Students attending the employer's school receive school credits towards graduation to the same extent as they would receive at other schools. Teachers working for the employer must have the same credentials as those teaching in traditional public schools. Teacher associates do not need teaching credentials. At the end of the 2009 school year, the claimant received a letter from the employer offering her continued employment as a teacher's associate for the 2009-2010 school year. The claimant currently works as a teacher's associate for the employer during the 2009-2010 school year.

REASONING AND CONCLUSIONS OF LAW:

When a claim for benefits is filed between academic years, wages earned in school employment may not be used on the claim if an individual performed services in the prior academic year and has reasonable assurance of employment in the upcoming academic year. Iowa Code § 96.4(5). The first issue to determine is whether the employer is an "educational institution" within the meaning of the statute. An "educational institution" is a public, non-profit, private, or parochial school in which students are offered an organized course of study designed to impart knowledge by a teacher. See 871 IAC 24.51(1). The employer basically operates as an extension of the various school districts for which it provides services. The services are paid for by the various school districts. The employer's teachers must have credentials to the same extent as teachers in traditional schools.

Given the interrelationship between the employer and the various school districts, the administrative law judge concludes the employer is an educational institution within the meaning of the law. It is undisputed that the claimant performed services for the employer during the 2008-2009 academic year. It is also undisputed that she had reasonable assurance of continued employment during the 2009-2010 academic year and returned to working as a teacher associate for the employer for the 2009-2010 school year. The employer verified to the claimant that she had reasonable assurance of working in the 2009-2010 in a letter the employer sent to her at the end of the 2009 school year. For the above reasons, the administrative law judge concludes the claimant is not eligible to receive benefits during the summer because the employer was between academic school years and the claimant had reasonable assurance of returning to work for the employer. Therefore as June 21, 2009, the claimant is not eligible to receive benefits.

This matter is remanded to the Claims Section to determine the issue of whether the claimant has been overpaid benefits she may have received during the summer of 2009.

DECISION:

The representative's November 6, 2009 decision (reference 03) is reversed. The claimant is not eligible to receive benefits when the employer is between academic school years and the claimant has reasonable assurance of returning to work for the employer. As of June 21, 2009, the claimant is not eligible to receive benefits. An issue of overpayment is remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css