

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARIA I BERMEA**

Claimant

**APPEAL NO. 13A-UI-01343-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 08/19/12**

**Claimant: Appellant (5)**

Section 96.5-5-C – Worker's Compensation/TDD  
Section 96.19-38 - Total and Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant appealed a representative's decision dated January 18, 2013, reference 02, that held she is eligible for reduced weekly unemployment benefits beginning September the week ending September 1, 2012, due to receiving TTD worker's compensation. A hearing was held on February 27, 2013. The claimant participated.

**ISSUE:**

The issue is whether claimant received TTD worker's compensation.

**FINDINGS OF FACT:**

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds that: The claimant is employed at Quality Processing Service (ER#329552). She filed an unemployment claim on August 19, 2012 due to a work reduction in her scheduled hours. Her WBA is \$316.00. She properly reported her partial wages for each week ending September 29, 2012 and received the appropriate benefit.

Although claimant did receive some TTD worker's compensation for a six-week period after December 2011, she filed no unemployment claim at that time and has not received any similar subsequent payment through the date of this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-5 provides:

An individual shall be disqualified for benefits:

5. Other compensation. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

b. Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

c. 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 paragraph, 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.

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", "b", or "c", 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 Code section 96.19-38 provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The administrative law judge concludes that claimant did not receive any disqualifying TTD worker's compensation on and after her August 19, 2012 UI claim.

The administrative law judge further concludes the claimant has properly reported her partial employer wages from the date of her claim that is the reason her weekly benefit amount is reduced.

**DECISION:**

The decision of the representative dated January 18, 2013, reference 02, is modified with no effect. The claimant did not receive disqualifying TTD worker's compensation, but is partially unemployed on her August 19, 2012 UI claim and receives a reduced weekly benefit when reporting those wages. The claimant is entitled to benefits, provided she is otherwise eligible.

---

Randy L. Stephenson  
Administrative Law Judge

---

Decision Dated and Mailed

rls/tll