

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORNA J BLACKBURN
Claimant

APPEAL 19A-UI-01609-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

OC: 12/02/18
Claimant: Appellant (1)

Iowa Code § 96.5(5)c – Receipt of Pension

STATEMENT OF THE CASE:

Lorna J. Blackburn (claimant) filed an appeal from the February 18, 2019, reference 02, unemployment insurance decision that deducted a lump-sum pension payment from unemployment insurance benefits. After due notice was issued, a hearing was held by telephone conference on March 11, 2019 and was consolidated with the hearing for appeal 19A-UI-01885-SC-T. The claimant participated personally. Good Samaritan Society, Inc. (employer) did not respond to the hearing notice and did not participate. No exhibits were offered into the record. The administrative law judge took official notice of the administrative record, specifically the fact-finding documents.

ISSUE:

Is the claimant's pension correctly deducted from benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was separated from this base-period employer when her job was eliminated and she was eligible to receive a small pension. The employer maintained the pension account and contributed to the pension at a rate of one hundred percent. The claimant filed her claim for benefits effective December 2, 2018 and her average weekly wage in the high quarter of her base period is \$521.58. On January 29, 2019, the claimant elected to withdraw the pension as a lump sum of \$3,984.72 to provide for living expenses. No actuarial evidence has been provided as to the amount of the pension payment the claimant would receive each month had she received it as a monthly periodic payment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the pension is deducted correctly.

Iowa Code section 96.5(5) provides, in relevant part:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

...

(3) 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, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contributions to the plan.

b. 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", subparagraph (1), (2), or (3), 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 Admin. Code r. 871-24.13(3)e provides:

Deductible and nondeductible payments.

(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

...

e. Pension, retirement, annuity, or any other similar periodic payment made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced by that portion of the payment which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan.

The Iowa Supreme Court has held that pensions received in a lump sum payment are deductible from unemployment insurance benefits. *Meredith Corp. v. Iowa Dept. of Job Serv.*, 320 N.W.2d 596 (Iowa 1982). However in *Meredith Corp.*, the Court determined the unemployment insurance benefits were to be reduced by the monthly payment the employee would have received had she elected a monthly payout. *Id.*

In this case, the claimant received a pension disbursement from a base-period employer that contributed one hundred percent of the fund. Absent information about what the monthly payment would have been, the agency used the claimant's average weekly wage in her high quarter and divided the lump sum by that amount to determine how many weeks the claimant would be disqualified. Based on the lump sum payment, the claimant is ineligible for benefits for seven and half weeks. The agency correctly deducted the pension lump sum and benefits are denied from January 27, 2019 through March 16, 2019.

DECISION:

The February 18, 2019, reference 02, unemployment insurance decision is affirmed. The pension is deducted correctly. Benefits are denied from January 27, 2019 through March 16, 2019.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn