

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

AMY S MACGREGOR  
706 – 6<sup>TH</sup> ST SW  
SPENCER IA 51301-6252

MEDI-CLAIM SOLUTIONS  
PO BOX 466  
SPENCER IA 51301

Appeal Number: 06A-UI-03324-HT  
OC: 02/19/06 R: 01  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

The employer, Medi-Claim Solutions, filed an appeal from a decision dated March 15, 2006, reference 02. The decision allowed benefits to the claimant, Amy MacGregor. After due notice was issued a hearing was held by telephone conference call on April 11, 2006. The claimant participated on her own behalf. The employer participated by Owner Cindy Greer, Collections Specialist Geannette Trojahn, and Account Manager Renea Dutler. The employer was represented by Attorney John Greer.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Amy MacGregor had been employed as a collections specialist by Physicians Back and Neck Clinic (PBNC). That company announced in November 2005 it would be closing and terminating all of its Iowa employees. The employees received official notice that the termination date would be February 17, 2006, in letters received February 7, 2006.

Cindy Greer had been an employee of PBNC handling medical claims. She established Medi-Claims Solutions in January 2006. On February 8, 2006, Ms. Greer asked Ms. MacGregor if she would be interested in working for her new company when the employment with PBNC ended on February 17, 2006. There was no discussion of what the job would be or the pay but the claimant indicated she was not interested and would be seeking employment opportunities elsewhere. She filed for unemployment benefits with an effective date of February 19, 2006.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is not.

Iowa Code Section 96.5-3-a provides:

An individual shall be disqualified for benefits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

871 IAC 24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

The claimant was not offered a specific job on February 8, 2006, there was merely a question as to whether she would be interested in working for Ms. Greer's new company. The refusal was given the same day which was more than one week prior to Ms. MacGregor filing her claim for benefits. Under the provisions of the above Administrative Code section this is not a disqualifying incident as the claimant did not have an active claim for benefits at the time of the refusal. The courts have ruled on the validity of this jurisdictional provision in Dico, Inc. v. EAB, 576 N.W.2d 352 (Iowa 1998). Disqualification may not be imposed.

#### DECISION:

The representative's decision of March 15, 2006, reference 02, is affirmed. Amy MacGregor is qualified for benefits, provided she is otherwise eligible.

bgh/pjs