

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARIANN GROOM**  
Claimant

**APPEAL NO. 12A-UI-03245-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCGRAW-HILL INC**  
Employer

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

Section 96.5-5 – Severance Pay

**STATEMENT OF THE CASE:**

Mariann Groom filed a timely appeal from an unemployment insurance decision dated March 20, 2012, reference 02, that ruled she was ineligible for unemployment insurance benefits for the 11 weeks ending May 19, 2012. After due notice was issued, a telephone hearing was held April 24, 2012 on a consolidated record with 12A-UI-03244-AT and 12A-UI-03246-AT.

**ISSUE:**

Did the claimant receive severance pay attributable to the 11 weeks ending May 19, 2012?

**FINDINGS OF FACT:**

The findings of fact contained in decision 12A-UI-03244-AT are incorporated herein by reference.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-5 requires that severance pay freely given to a departing employee by an employer be deducted from the employee's unemployment insurance benefits for the week or weeks to which the severance pay is attributed. Payments to an individual in return for the individual's legally binding promise not to file any actions against an employer in connection with a separation from employment are not deductible, even if the payment to the employee is characterized as severance pay in the agreement.

Exhibit A is a copy of the agreement between Ms. Groom and the employer. The wording of the agreement establishes that Ms. Groom would have received 10.7 weeks of severance pay even if she did not agree to file no actions against the employer in connection with the separation. The effect of the agreement was to double the amount that Ms. Groom received. Because she would have received 10.7 weeks of severance pay in any event, the severance pay is deductible. The administrative law judge concludes that benefits must be withheld for the 11 weeks ending May 19, 2012 because companion decision 12A-UI-03244-AT denies benefits

through March 3, 2012 because of vacation pay and because seven-tenths of a week of severance pay exceeds Ms. Groom's unemployment insurance weekly benefit amount. Therefore, benefits must be withheld for the 11 weeks beginning March 4, 2012 and ending May 19, 2012.

**DECISION:**

The unemployment insurance decision dated March 20, 2012, reference 02, is affirmed.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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