

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MAGGIE L SPURGEON**  
Claimant

**APPEAL 20A-UI-10691-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOONE COMMUNITY SCHOOL DISTRICT**  
Employer

**OC: 06/14/20  
Claimant: Appellant (4R)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

The claimant/appellant, Maggie L. Spurgeon, filed an appeal from the August 26, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 20, 2020. The claimant participated personally. Wendy Spurgeon, mother of claimant, also testified. The employer, Boone Community School District, did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Does the claimant meet the definition of being considered partially unemployed?  
Is the claimant able to work and available for work effective June 14-July 4, 2020?  
If so, is the employer’s account liable for potential charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established her claim with an effective date of June 14, 2020. Claimant’s weekly benefit amount is \$219.00.

Claimant has been a full-time caregiver for employer’s before/after pre-k program since 2018. Claimant works 30-35 hours per week, twelve months a year. Claimant earned \$12.24 per hour at the time of her claim.

Claimant’s hours were reduced by the employer in response to a lack of children attending. Claimant accepted all available work and had no restrictions.

Claimant reported working 25 hours for the week ending June 20, 2020. Claimant reported \$108.00 in wages for the week, but earned \$306.00.

Claimant reported working 22 hours for the week ending June 27, 2020. Claimant reported \$180.00 in wages for the week, but earned \$269.28.

Claimant reported working 19 hours for the week ending July 4, 2020. Claimant reported \$188.00 in wages for the week, but earned \$232.56.

Employer was closed July 1, 2020 through August 23, 2020 and reopened August 24, 2020.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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 either of the following apply:

(1) 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.

(2) 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.

Iowa Code section 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during

the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 38, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

Claimant has established she was able to and available for work each week between June 14, 2020 and July 4, 2020. Claimant worked all available hours. Claimant is considered partially unemployed between June 14, 2020 and July 4, 2020.

However, in order to be eligible, claimant's earnings cannot exceed her weekly benefit amount plus \$15.00. See Iowa Admin. Code r. 871-24.18. (Claimant's weekly benefit amount is \$219.00 plus \$15.00 = \$234.00). For the weeks ending June 14 and 20, 2020, she earned wages in excess of her weekly-benefit amount, plus fifteen dollars. Because the claimant has earned wages in excess of his weekly-benefit amount, plus fifteen dollars, she cannot be considered partially unemployed for those weeks. Iowa Code 96.19(38) and Iowa Admin. Code r. 871-24.18. Benefits are denied for the period of June 14, 2020 through June 27, 2020. Benefits are allowed the week ending July 4, 2020, provided claimant is otherwise eligible.

The issue of the claimant's unrecorded wages in conjunction with her weekly claims June 14, 2020 through July 4, 2020 is remanded to the Benefits Bureau for an adjustment.

The issues of whether the claimant has been overpaid benefits and is eligible for Federal Pandemic Unemployment Compensation are remanded to the Benefits Bureau for an initial investigation and decision.

*Note to Claimant:* This decision denies benefits. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.* If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at

<https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The unemployment insurance decision dated August 26, 2020, (reference 01) is modified in favor of claimant/appellant. Claimant was partially unemployed June 14, 2020 through July 4, 2020. However, due to wages earned, claimant is only eligible for benefits for the week ending July 4, 2020. Claimant is denied benefits for the weeks ending June 20 and 27, 2020.

**REMANDED:**

The issue of the claimant's unrecorded wages in conjunction with her weekly claims June 14, 2020 through July 4, 2020 is remanded to the Benefits Bureau for an adjustment. The issues of whether the claimant has been overpaid benefits and is eligible for Federal Pandemic Unemployment Compensation are remanded to the Benefits Bureau for an initial investigation and decision.



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October 22, 2020  
Decision Dated and Mailed

jlb/mh