

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMY K COLEGROVE**  
Claimant

**APPEAL NO: 14A-UI-10175-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA PHYSICIANS CLINIC MEDICAL**  
Employer

**OC: 03/09/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(7) – Vacation Pay

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 22, 2014 determination (reference 02) that held her ineligible to receive benefits for the weeks ending March 15 through April 5, 2014, because she received or was eligible to receive vacation pay for these weeks that exceeded her maximum weekly benefit amount. The claimant participated at the October 22 hearing. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the vacation pay the claimant received must be attributed to the weeks ending March 15 through April 5, 2014, and she is not eligible to receive benefits for these weeks.

**ISSUE:**

Is the claimant ineligible to receive benefits for the weeks ending March 15 through April 5, 2014, because she received vacation pay that must be attributed to these weeks?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of March 9, 2014. The last day the claimant performed any work for the employer was February 24, 2014, but the last day the employer paid her wages was March 3. The employer paid her for eight hours of work this day. Based on her base period wages, the claimant's hourly wage was approximately \$43.26. The employer also paid the claimant for 138 hours of vacation. The employer paid out the vacation hours in late March 2014.

The claimant established a claim for benefits during the week of March 9. Her maximum weekly benefit amount is \$408. She filed claims for the weeks ending March 15 through April 5, 2014. She did not report any wages or vacation pay during these weeks.

The claimant received a check for her vacation pay in late March. When she spoke to a representative to report this money, the representative indicated she was required to report the money when earned, not when paid. As a result, of this information, the claimant did not report the vacation pay she received on any weekly claims.

**REASONING AND CONCLUSIONS OF LAW:**

When an employer makes a vacation payment or becomes obligated to make a payment, the vacation pay must be deducted from unemployment insurance benefits: (1) if the employer reports the amount of vacation pay and designates the dates to which the vacation pay applies within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation pay. If an employer does not timely designate the dates to which vacation pay applies, the unused vacation pay must be divided by five and applied to the first five working days after the claimant's last day of work. If the amount of vacation pay applied to a week is less than the claimant's weekly benefit amount, the claimant will receive an amount equal to the weekly benefit amount minus the vacation pay applied to the week. Iowa Code § 96.5(7), 871 IAC 24.16.

The breakdown of the claimant's wages and vacation pay is as follows:

Week ending	Wages	Vacation
March 15	\$346.08	\$1384.64
March 22	Zero	\$1730.72
March 20	Zero	\$1730.72
April 5	Zero	\$1124.92
Total		\$5971

Since the amount of vacation pay attributed to each of the above weeks exceeds the claimant's maximum weekly amount of \$408, she is not eligible to receive benefits for the weeks ending March 15 through April 5, 2015.

**DECISION:**

The representative's September 22, 2014 determination (reference 02) is affirmed. The vacation pay the claimant received, 138 hours or \$5971, is attributed to the weeks ending March 15 through April 5. Since the vacation pay attributed to each week exceeds her maximum weekly benefit amount, the claimant is not eligible to receive benefits for the weeks ending March 15 through April 5, 2014.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs