

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ABBIE A AGAN-LAWS
Claimant

APPEAL NO. 20A-UI-03292-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAINSTREAM LIVING INC
Employer

OC: 03/15/20
Claimant: Respondent (4)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Recovery of Overpayment of Federal Benefit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated April 10, 2020, reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on May 12, 2020. Claimant participated personally. Employer participated by Marcanne Lynch. Claimant's Exhibit A was admitted into evidence.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant has been overpaid state or federal benefits?

FINDINGS OF FACT:

The claimant currently works for Mainstream Living, a base period employer, full time working from home and from the office.

Claimant had an agreement to work from home and office for employer. Claimant was on a medical leave of absence until March 18, 2020. When claimant was to return to work, there was not the childcare that would allow claimant to do her office work. Claimant was able to find childcare to take her children on April 11, 2020.

This matter concerns only the period of time from March 18, 2020 to April 11, 2020. Claimant received partial payments from the state during the weeks ending March 21, 2020 to April 4, 2020.

Claimant has additionally received \$600.00 federal benefit for the week ending April 4, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was partially unemployed during the weeks ending March 21, 2020 to April 4, 2020. The employer is relieved of benefit charges.

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 96.19, subsection 38, paragraph "b", unnumbered paragraph (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 Code section 96.19(38) provides:

"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.

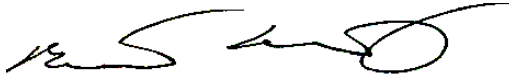
(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who 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.

Because the claimant's absences in which she worked part-time for a number of weeks were exclusively Covid-related, claimant is eligible to receive partial benefits and employer's account will not be charged. As such, state and federal benefits received by claimant are not overpayments.

DECISION:

The April 10, 2020, reference 01, decision is affirmed as modified. The claimant is partially unemployed and benefits are allowed, provided claimant is otherwise eligible. As the absences are Covid-related, the account of the current part-time employer shall not be charged.



Blair A. Bennett
Administrative Law Judge

May 14, 2020
Decision Dated and Mailed

bab/scn