

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KATELYN FERRIS
Claimant

MERCY MEDICAL CENTER
Employer

APPEAL 20A-UI-07266-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1R)

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
871 IAC 24.24.22(2)i – On Call Worker

STATEMENT OF THE CASE:

Katelyn Ferris (claimant) appealed a representative's June 19, 2020, decision (reference 01) that denied benefits based on her work status with Mercy Medical Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 6, 2020. The claimant participated personally. The employer participated by Amanda Felton, Human Resources Manager, and Kristen Meese, Nurse Manager of the Operating Room.

The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 4, 2017, as a full-time staff registered nurse. On April 4, 2017, the claimant signed for receipt of the employer's handbook. The handbook stated that pro re nata (PRN) or as needed staff were "scheduled to work as needed". The employer did not "guarantee a minimum number of hours of work or pay".

Later, in the claimant's employment she became a part-time employee. On November 6, 2019, the claimant changed her status to pro re nata (PRN) or as needed. The claimant filed for unemployment insurance benefits with an effective date of March 22, 2020. Her hours were reduced due to Covid-19 but she worked and earned wages each week. Her weekly benefit

amount was determined to be \$463.00. The claimant received benefits from March 22, 2020, to the week ending June 6, 2020, for a total of \$4,410.00 in state unemployment insurance benefits after the separation from employment. She also received \$5,400.00 in Federal Pandemic Unemployment Compensation from March 29, through June 6, 2020.

REASONING AND CONCLUSIONS OF LAW:

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 Admin. Code r. 871-24.22(2)i(3) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market....

i. On-call workers.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code section 96.19(38)"a" and "b." An individual who is willing to accept only on-call work is not considered to be available for work.

Both parties agree the claimant is an on call worker. The claimant has not been fully or temporarily unemployed since she filed for unemployment insurance benefits. The claimant was hired into a new job on November 6, 2019, as a PRN worker with no guarantee of hours. She has been employed each week in the same manner as she was hired on November 6, 2019. The claimant cannot be considered partially unemployed.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below.

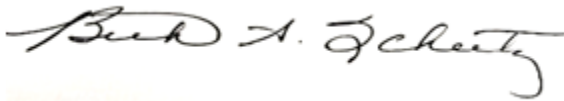
The issue of whether the claimant was overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded for determination.

DECISION:

The June 19, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective March 22, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time as the claimant is able to and available for work.

The issue of whether the claimant was overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded for determination.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance 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>.



Beth A. Scheetz
Administrative Law Judge
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August 11, 2020
Decision Dated and Mailed

bas/mh