

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA WHITE
Claimant

APPEAL NO: 11A-UI-15840-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

BOONE COUNTY HOSPITAL
Employer

OC: 11-13-11
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 6, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 12, 2012. The claimant participated in the hearing. Kim Schwartz, assistant administrator of human resources; Tracy Koenig, patient registration director; and Lisa Quillen, business office director, participated in the hearing on behalf of the employer. Employer's Exhibits One through Eight were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time patient registration clerk for Boone County Hospital from May 5, 2005 to November 8, 2011. On November 7, 2011, Patient Registration Director Tracy Koenig overheard the claimant talking to a 23-year-old patient's mother about his bill when the patient was not present and had not given the claimant permission to discuss his bill with his mother. Ms. Koenig called the claimant's extension to tell her to stop discussing the absent patient's bill because it was a HIPAA violation but the claimant did not answer her phone. Ms. Koenig then called the extension of the employee who worked next to the claimant and told her to slip a note to the claimant telling her to stop talking about the claimant's bill. The other employee did so, but the claimant did not read the note until after the patient's mother and girlfriend left. Ms. Koenig went out and explained to the claimant she could not discuss the patient's bill with his mother, because he was an adult, and the claimant stated she did not realize he was not a minor. The claimant was releasing personal health information regarding a patient's billing and financial status with the hospital and also gave incorrect information by stating the patient did not owe the hospital any money. Ms. Koenig contacted Business Office Director Lisa Quillen and explained the situation to her and she talked to the administration and the decision was made to terminate the claimant's employment (Employer's Exhibits Three, Four, Five and Eight). On January 14, 2011, the claimant received a verbal warning after she was talked to about her registration audits and the fact her numbers were consistently lower

than those of other employees and the claimant started yelling and slamming things around, so Ms. Koenig directed her to clock out and go home (Employer's Exhibit One). On October 11, 2011, the claimant received a written warning and disciplinary layoff after she gave a patient whose account was in collections incorrect information, which forced the employer to pull the account from the bad debt section and stop its lawsuit against the patient, which cost the employer legal fees, because the claimant, who was an acquaintance of the patient, wrongly told her she could simply pay whatever she wanted at the hospital instead of having to make payment arrangements with the collection agency (Employer's Exhibit Two). The claimant also twice put the wrong arm bands on patients going to surgery during the period of one week, which is major patient safety issue as well as a HIPAA violation (Employer's Exhibit Two). The claimant was supposed to double check the arm bands with the third check being performed by surgery nurses who caught the claimant's errors on both occasions. HIPAA violations do not automatically result in termination of employment but in this case the final incident was the claimant's second HIPAA violation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The claimant had two HIPAA violations in less than one month. In the first instance, she placed the incorrect armband on two patients going to surgery. In addition to that being a major patient safety issue, the armbands also contained personal patient information that was exposed to the incorrect patient resulting in a HIPAA violation. The final incident occurred when the claimant released an adult patient's financial and billing information to his mother with his girlfriend present, which was also a HIPAA violation. The claimant had received a written warning and a disciplinary layoff and knew or should have known that the next step in the employer's disciplinary process was termination and that her job was in jeopardy following the disciplinary layoff. Consequently, because the claimant had two HIPAA violations in less than one month's time, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The December 6, 2011, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw