

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA R GRAVES**

Claimant

**APPEAL NO. 14A-UI-08005-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMMUNITY CARE INC**

Employer

**OC: 05/25/14**

**Claimant: Appellant (1)**

Section 96.3(5) – Duration of Benefits

871 IAC 24.29 – Business Closing

**STATEMENT OF THE CASE:**

Melissa Graves filed a timely appeal from the July 31, 2014, reference 01, decision that denied her request to have her benefit eligibility redetermined as being based on layoff due to a business closing. After due notice was issued, a hearing was held on August 25, 2014. Ms. Graves participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Exhibits A, B, and C were received into evidence.

**ISSUE:**

Whether the claimant was laid off pursuant to a business closing.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Melissa Graves was employed by Community Care, Inc. as a full-time direct support professional from 2010 until May 29, 2014 when she was laid off. Ms. Graves performed her duties at the Marion County Care Facility located at 1111 Newbold Street in Knoxville. The property belongs to Marion County. Community Care, Inc. (CCI) leased the property from the county and provided care to residents who had formerly been in the care of the county. In May 2014 when Ms. Graves was notified that CCI was going to cease operations at the 1111 Newbold Street location and that her position was being eliminated as a result, CCI was in receivership. It was the appointed receiver that notified Ms. Graves on behalf of CCI that she was being laid off because CCI was ceasing operations at the former Marion County Care Facility. Another employer entered into a lease agreement with Marion County and commenced providing similar services at the Marion County Care facility effective June 1, 2014. The new tenant continues to provide services at that facility.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.3(5)a provides:

a. Duration of benefits. The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off indicator" is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

Iowa Admin. Code r. 871-24.29(2) provides:

(2) Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.

Ms. Graves was laid off effective May 29, 2014. The layoff did not occur in the context of a business closing, as that term is defined by the unemployment insurance law, because the services that CCI had provided at the Marion County Care Facility were "otherwise transferred" to the new tenant who continued to provide the same or similar services at the same location. Ms. Graves is not eligible to have her claim for benefits redetermined as being based on a layoff pursuant to a business closing. The request to have benefits redetermined is denied.

**DECISION:**

The Claims Deputy's decision dated July 31, 2014, reference 01, is affirmed. The claimant's layoff did not occur in the context of a business closing, as the term is defined by the unemployment insurance law. The business was "otherwise transferred" to a new tenant who continued to operate at the same location. The claimant is not eligible to have her claim for benefits redetermined as being based on a layoff pursuant to a business closing. The request to have benefits redetermined is denied.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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