

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIANNE HICKEY
Claimant

GILBERTVILLE-DON BOSCO
Employer

APPEAL 21A-UI-04413-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (4)

Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.7(2)a(2) – Employer Contributions and Reimbursements

STATEMENT OF THE CASE:

On February 1, 2021, claimant Marianne Hickey filed an appeal from the January 28, 2021 (reference 01) unemployment insurance decision that denied benefits effective March 29, 2020, based upon a determination that claimant was still employed at the same hours and wages and was therefore ineligible for benefits. On February 4, 2021, employer Gilbertville—Don Bosco also filed an appeal on claimant's behalf.

The administrative law judge reviewed the appeal and the administrative record and was able to resolve the issue in claimant's favor with no prejudice to the employer without the need for a hearing. Therefore, the hearing scheduled for 2:00 p.m. on Friday, April 9, 2021, was not held.

The administrative law judge notes that the unemployment insurance decision issued on January 28, 2021 (reference 01) referred to the employer as "Iowa Catholic Conference." Based on the information in the administrative record, this has subsequently been amended to "Gilbertville—Don Bosco," the correct employer. This decision will use "Gilbertville—Don Bosco" and "employer" interchangeably.

ISSUE:

Is the claimant totally, partially, or temporarily unemployed effective March 29, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked for the employer as the school nurse. Effective March 16, 2020, the employer was required to close its schools due to the COVID-19 pandemic. Governor Reynolds had issued a proclamation closing K-12 schools in Iowa, and there was limited work available for claimant once the school was closed.

Claimant worked and was paid through April 3, 2020. Effective April 5 2020, claimant was temporarily unemployed due to the COVID-19 pandemic. Claimant was unemployed due to the pandemic through April 25, 2020. She was recalled to work on April 27, 2020.

Claimant filed for benefits for four weeks, the weeks ending April 4, April 11, April 18, and April 25. Claimant reported wages each week that she filed for benefits. For the weeks ending April 4 and April 25, claimant reported wages in excess of her weekly benefit amount and she received no benefits. For the weeks ending April 11 and April 18, claimant reported some wages and received partial unemployment benefits.

Claimant is listed as Group Code 8, which currently indicates that she is unemployed because of the pandemic. Under this group code, claimant is still attached to the employer but is not able to work due to the pandemic, and the employer is relieved of any charges.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was partially unemployed due to the pandemic for the two weeks ending April 18, 2020. The underlying decision is modified in favor of the claimant.

Iowa Code § 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.

Iowa Code § 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".

Here, claimant was not unemployed for the week ending April 4, 2020. She reported wages well in excess of her weekly benefit amount plus fifteen dollars, and she received no unemployment insurance benefits that week. Therefore, she was not eligible and she was not paid for that week.

Following that week, claimant was partially unemployed for the two weeks ending April 18, 2020. This partial unemployment was a result of the COVID-19 pandemic. The employer had limited work available for her, as the school was closed. Benefits are allowed for the two weeks ending April 18, 2020, provided she is otherwise eligible. As claimant was unemployed due to the pandemic, the account of this employer is not being charged.

DECISION:

The January 28, 2021 (reference 01) unemployment insurance decision is modified in favor of claimant.

Claimant was not unemployed for the week ending April 4, 2020. She is not eligible for benefits for that week. She did not receive any benefits for that week, and she is not overpaid.

Claimant was partially unemployed effective April 5, 2020, until April 18, 2020. Partial unemployment insurance benefits are allowed for those two weeks, provided claimant is otherwise eligible.



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April 13, 2021
Decision Dated and Mailed

lj/scn