

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA A HEUBERGER
Claimant

APPEAL NO: 09A-UI-09974-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY MEDICAL CENTER-NORTH IOWA
Employer

OC: 03/08/09
Claimant: Appellant (1)

Section 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Rebecca A. Heuberger (claimant) appealed a representative's June 23, 2009 decision (reference 03) that concluded she was not eligible to receive benefits for the weeks ending April 11 and 18, 2009, because she received vacation pay from the employer that should be attributed to these weeks. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 29, 2009. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

What weeks should the vacation pay the claimant received from the employer be attributed to?

FINDINGS OF FACT:

The claimant's last day of work for the employer was March 6, 2009. The claimant established a claim for benefits during the week of March 8, 2009. The claimant's maximum weekly benefit amount is \$356.00.

When the employer responded to the notice of claim, the employer indicated the severance payment the claimant received, \$2,378.88, should be attributed to March 9 through April 4, 2009. The employer also indicated the vacation pay the claimant received, \$1,498.30, should be attributed to April 4 through April 21, 2009.

The claimant understood she had four weeks of severance pay and two weeks of vacation pay. She did not file any weekly claims the first six weeks. The first weekly claim she filed was for the week ending April 25, 2009.

REASONING AND CONCLUSIONS OF LAW:

When an employer makes a vacation payment or becomes obligated to make a payment, the vacation pay must be deducted from unemployment insurance benefits: (1) if the employer

reports the amount of vacation pay and designates the dates to which the vacation pay applies within ten days after receiving the notice of claim form and (2) if the claimant claims benefits during a week the employer designates for vacation pay. If the amount of vacation pay applied to a week is less than the claimant's weekly benefit amount, the claimant will receive an amount equal to the weekly benefit amount minus the vacation pay applied to the week. Iowa Code section 96.5-7, 871 IAC 24.16.

Since the employer designated the vacation pay should be attributed to April 4 through April 21, the Department is obligated to attribute the vacation pay to this time period. This means that \$624.30 of vacation pay is attributed to the weeks ending April 11 and 18 and \$249.72 of the vacation pay is attributed to April 20 and 21. Since the vacation pay the claimant received for the weeks ending April 11 and 18 exceed her weekly benefit amount, she is not eligible to receive benefits for these weeks. The claimant is eligible for partial benefits during the week ending April 25 because only \$250.00 in vacation pay is attributed to this week.

DECISION:

The representative's June 23, 2009 decision (reference 03) is affirmed. The claimant is not eligible to receive benefits for the weeks ending April 11 and 18 because her vacation pay attributable to these weeks exceeds her weekly benefit amount. The claimant is eligible to receive partial benefits for the week ending April 25 because \$250.00 vacation pay must be attributed to April 20 and 21, 2009.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs