

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BRITTANY K WRIGHT**  
Claimant

**MERCY MEDICAL CENTER-CLINTON INC**  
Employer

**APPEAL 18A-UI-09846-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/29/18  
Claimant: Respondent (2)**

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Iowa Code § 96.3(5) – Benefit Duration - Business Closing  
Iowa Admin. Code r. 871-24.29(1) and (2) – Business Closing

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the September 20, 2018, (reference 02) unemployment insurance decision that allowed the request to redetermine the claim based upon a business closure. After due notice was issued, a telephone conference hearing was held on Wednesday, October 10, 2018. Claimant Brittany K. Wright did not register a telephone number at which to be reached and did not participate in the hearing. Employer Mercy Medical Center participated through Salena Hynes, HR Generalist.

**ISSUE:**

Is the claimant eligible to have the monetary determination recalculated due to business closing?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant began her employment on December 1, 2014. She was employed as a full-time nurse assistant at the employer's Mercy Living Center South facility, located on the South Campus of Mercy Medical Center at 638 S. Bluff Street. Claimant last reported to work on July 6, 2018. She separated from employment on August 18, 2018, when the employer terminated her position and closed the long-term nursing care at the South Campus of Mercy Medical Center. Due to declining volume of patients, the employer combined the long-term nursing care from the South Campus with the long-term nursing care at the Mercy Living Center North facility, located directly behind the employer's hospital. The employer still operates five departments at the South Campus: wound care, dialysis, therapy, home care hospice, and home medical equipment.

## REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the claimant was not laid off as a result of a business closure at the location where she worked and, therefore, is not entitled to a redetermination of wage credits.

Iowa Code § 96.3(5)a provides:

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. (Emphasis added.)

Iowa Admin. Code r. 871-24.29(1) provides:

Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

In this case, while claimant's department was closed, the employer continues to operate at the South Campus of Mercy Medical Center. Since there is still an ongoing business at that

location, the business is not considered to have closed. Therefore, while claimant remains qualified for benefits based upon a layoff from this employer, she is not entitled to a recalculation of benefits.

**DECISION:**

The September 20, 2018, (reference 02) unemployment insurance decision is reversed. The claimant was not laid off due to a business closure. Recalculation of benefits is denied. If the entire business closes and ceases all operation at that location at some future date, claimant may reapply for recalculation.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn