

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JERRY PATTERSON

Claimant

AMES COMMUNITY SCHOOL DIST

Employer

APPEAL 21A-UI-02988-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20

Claimant: Appellant (1)

IAC R. 871-24.52(10) – Substitute Teacher
Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

Claimant filed an appeal from the January 6, 2021 (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 15, 2021, at 8:10 a.m. Claimant participated. Employer participated through Kristin Johnson, Director of Human Resources. Employer's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is a substitute teacher.

Whether claimant is eligible for benefits between academic years or terms.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed with Ames Community School District since September 4, 2018. Claimant works as a substitute teacher. Claimant was on the substitute teaching list for the 2019/2020 school year. Claimant is also on the substitute teaching list for the 2020/2021 school year.

Claimant filed an initial claim for benefits effective March 15, 2020, when schools closed due to Covid-19. Claimant's base period includes the fourth quarter of 2018 through the third quarter of 2019. During the base period, claimant also earned wages as a substitute teacher for Gilbert Community School District and as an on-line instructor for Iowa Central Community College. Claimant's wages with Iowa Central Community College were not earned performing on-call work; these wages do not meet the monetary eligibility requirements for regular unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Admin. Code r. 871-24.52(10) provides:

Substitute teachers.

a. Substitute teachers are professional employees and would therefore be subject to the same limitations as other professional employees in regard to contracts, reasonable assurance provisions and the benefit denials between terms and during vacation periods.

b. Substitute teachers who are employed as on-call workers who hold themselves available for one employer and who will not search for or accept other work, are not available for work within the meaning of the law and are not eligible for unemployment insurance payments pursuant to subrule 24.22(2) "i"(1).

c. Substitute teachers whose wage credits in the base period consist exclusively of wages earned by performing on-call work are not considered to be unemployed persons pursuant to subrule 24.22(2) "i"(3).

d. However, substitute teachers engaged in on-call employment are not automatically disqualified but may be eligible pursuant to subrule 24.22(2) "i"(3) if they are:

- (1) Able and available for work.
- (2) Making an earnest and active search for work each week.
- (3) Placing no restrictions on their employability.
- (4) Show attachment to the labor market. Have wages other than on-call wages with an educational institution in the base period.

e. A substitute teacher who elects not to report for further possible assignment to work shall be considered to have voluntarily quit pursuant to subrule 24.26(19).

The legislature has provided a specific rule that applies to substitute teachers holding that this category of worker, among others, is not considered to be unemployed within the meaning of the law when the only base period wage credits are related to "on-call" work. When an individual is hired to work "on-call" the implied agreement is that they will only work when work is available and that work will not be regularly available. Thus any diminution in hours is directly related to the sporadic availability of available work as no regular hours are guaranteed.

Claimant's employment as a substitute teacher is considered "on-call" work; therefore, claimant is not eligible for unemployment insurance benefits based upon his employment with Ames Community School District. Claimant also has non-education wages in his base period; however, those wages are not sufficient to make him monetarily eligible for benefits. Therefore, benefits are denied.

Because claimant is not eligible for benefits, the issue of whether claimant had reasonable assurance is moot.

DECISION:

The January 6, 2021 (reference 04) unemployment insurance decision is affirmed. Claimant is not eligible for benefits. Benefits are denied.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 29, 2021
Decision Dated and Mailed

acw/ol

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.