

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALLYSSA R ANGLE
Claimant

PELLA REGIONAL HEALTH CENTER
Employer

APPEAL 20A-UI-07395-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/15/20
Claimant: Appellant (2)

Iowa Code § 96.19(38) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On July 2, 2020, Allyssa R Angle (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 22, 2020 (reference 02) that denied benefits based on a finding that claimant was still employed for the same hours and wages as in her original contract of hire.

A telephone hearing was held on August 7, 2020. The parties were properly notified of the hearing. Claimant participated personally. Pella Regional Health Center (employer/respondent) participated by HR Generalist Nichelle Weiler.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge? Is the claimant an on-call worker?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on May 23, 2019. Claimant began working for employer in a PRN, or on-call status, beginning December 1, 2019. Claimant is still employed by employer in that capacity.

Claimant was also employed part-time at Lane Bryant. Claimant began employment there on or about December 1, 2019. Claimant was guaranteed a minimum of nine hours per week and typically worked between 20 and 25 hours per week. However, claimant was not scheduled for any hours from approximately March 15 until June 14, 2020. Claimant then was not scheduled for any hours between July 12 and August 1, 2020. Claimant was able to and available for work during those periods.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated June 22, 2020 (reference 02) that denied benefits based on a finding that claimant was still employed for the same hours and wages as in her original contract of hire is REVERSED.

Claimant was partially unemployed from March 15 until June 14 and again from July 12 until August 1. Claimant is eligible for benefits during those times, provided she meets all other eligibility requirements. However, employer's account shall not be charged, as she was still employed by it for the same hours and wages.

Iowa Code section 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.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Code section 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".

Iowa Code section 96.7(2)a(2) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

Iowa Admin. Code r. 871-23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Claimant was partially unemployed beginning March 15, 2020, and continuing until June 14, 2020. She was again partially unemployed from July 12 until August 1, 2020. This is because Lane Bryant guaranteed her a minimum of nine hours per week but during that time she received no hours. However, claimant remained employed by employer in the same way during these periods. As such, employer is not charged for benefits.

DECISION:

The June 22, 2020 (reference 02) decision that denied benefits based on a finding that claimant was still employed for the same hours and wages as in her original contract of hire is REVERSED.

Claimant was partially unemployed from March 15 until June 14 and again from July 12 until August 1. Claimant is eligible for benefits during those times, provided she meets all other eligibility requirements. However, employer's account shall not be charged, as she was still employed by it for the same hours and wages.



Andrew B. Duffelmeyer
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August 18, 2020
Decision Dated and Mailed

abd/scn