

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JODI M LUDINGTON**  
Claimant

**APPEAL NO. 20A-UI-07876-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JENNIE EDMUNDSON MEMORIAL  
HOSPITAL**  
Employer

**OC: 04/19/20**  
**Claimant: Respondent (1)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours  
Iowa Code § 96.4-3 – Able and Available  
Iowa Code § 96.7(2)A(2) – Partial Benefits  
Iowa Code § 96.19(38) – Total and Partial Unemployment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated July 13, 2020, reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on August 17, 2020. Claimant participated personally. Employer participated by Cameron Lind.

**ISSUES:**

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

The claimant currently works for Jennie Edmundson, a base period employer, under the same terms and conditions as contemplated in the original contract of hire.

Claimant works as a diagnostic scheduler for employer. During the dates of April 19, 2020 through June 1, 2020 claimant worked on a part time basis rather than her normal full time hours. Employer reduced hours claimant could work for this period as a direct result of the

effects of Covid. Claimant received partial unemployment benefits for this period of reduced hours.

On July 7, 2020 claimant asked for and was given a leave of absence, as she and her family were and continue to battle Covid within their household. Full time hours were available for claimant. Claimant has not received unemployment benefits during this period.

Claimant has received state unemployment benefits in this matter of \$2,660.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$4,200.00.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was partially unemployed for the period between April 19, 2020 and June 1, 2020. Claimant is not able and available for work, and therefore not eligible for benefits for the period from July 7, 2020 through the current date.

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 96.19(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 Admin. Code r. 871-24.22(2)j(1)(2)(3) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

Partial benefits are allowed for claimant for April 19, 2020 through June 1, 2020. During this period employer reduced claimant's hours as a direct result of Covid.

Benefits are not allowed for regular state unemployment benefits for the period of July 7, 2020 through the current date, as claimant is not able and available for work. As claimant remains on a leave of absence, she is not able to receive state benefits.

Claimant has received state unemployment benefits in this matter of \$2,660.00. Claimant is entitled to these benefits.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$4,200.00. Claimant is eligible to receive this payment.

*Note to Claimant:* Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. **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>.

**DECISION:**

The July 13, 2020, reference 01, decision is affirmed as it concerns the time period between April 19, 2020 and June 1, 2020. For the time from July 7, 2020 claimant is not eligible to receive unemployment benefits, as she is not able and available for work.



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Blair A. Bennett  
Administrative Law Judge

August 24, 2020  
Decision Dated and Mailed

bab/sam