

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**CHRISTINA K MCDANIEL**  
Claimant

**APPEAL NO. 20A-UI-07451-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA HOSPITAL CORP**  
Employer

**OC: 03/15/20**  
**Claimant: Appellant (1/R)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38) – Temporary and Partial Unemployment

**STATEMENT OF THE CASE:**

Christina McDaniel filed a timely appeal from the June 24, 2020, reference 01, decision that denied benefits effective March 15, 2020, based on the deputy's conclusion that Ms. McDaniel was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on August 26, 2020. Ms. McDaniel participated. Barbara Owca represented the employer. Exhibits A through D were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

**ISSUES:**

Whether the claimant was able to work and available for work during the period of March 15, 2020 through July 4, 2020.

Whether the claimant was partially and/or temporarily unemployed during the period of March 15, 2020 through July 4, 2020.

Whether this employer's account may be charged for benefits paid to the claimant for the period of March 15, 2020 through July 4, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Christina McDaniel established an original claim for benefits that was effective March 15, 2020. Iowa Workforce Development set her weekly benefit amount at \$518.00. Ms. McDaniel made weekly claims for the 16 weeks between March 15, 2020 and July 4, 2020. Ms. McDaniel established her claim for benefits in response to a March 17, 2020 temporary layoff from her part-time employment with Brick House Fitness, L.L.C. Ms. McDaniel has at all relevant times been in full-time employment with Central Iowa Hospital Corporation, where she works as an exercise specialist in cardio and pulmonary rehabilitation. Ms. McDaniel's wage in the full-time employment is \$28.16 per hour for a 40 hour work week. Ms. McDaniel continued to receive at least full-time work hours and at least weekly wages of \$1,126.40 from the full-time employment during the period of March 15, 2020 through July 4, 2020. Ms. McDaniel was recalled to the

part-time employment at Brick House Fitness on July 6, 2020 and discontinued her claim for benefits at that time.

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

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 Admin. Code r. 871-24.22(2) provides:

Benefits 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

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.

Ms. McDaniel is not eligible for unemployment insurance benefits she received for the period of March 15, 2020 through July 14, 2020. The evidence establishes that Ms. McDaniel was not totally, partially or temporarily unemployed within the meaning of the law at any point during the period of March 15, 2020 through July 4, 2020. Throughout that period, Ms. McDaniel continued to receive full-time employment and full-time wages that exceeded her \$518.00 weekly benefit amount plus \$15.00. Because Ms. McDaniel continued to enjoy full-time employment, she also did not meet the "availability" requirement. Benefits are denied for the period of March 15, 2020 through July 4, 2020. The employer's account will not be charged for benefits for the period of March 15, 2020 through July 4, 2020.

This matter will be remanded to the Benefits Bureau for entry of overpayment decisions regarding the regular benefits and Federal Pandemic Unemployment Compensation benefits Ms. McDaniel received for the period of March 15, 2020 through July 4, 2020.

#### **DECISION:**

The June 24, 2020, reference 01, decision is affirmed. The claimant did not meet the availability requirement, was not totally, partially or temporarily unemployed during the period of March 15, 2020 and July 4, 2020. The claimant is not eligible for benefits for the period of March 15, 2020 through July 4, 2020. The employer's account will not be charged for benefits for the period of March 15, 2020 through July 4, 2020.

This matter is remanded to the Benefits Bureau for entry of overpayment decisions regarding the regular benefits and Federal Pandemic Unemployment Compensation benefits the claimant received for the period of March 15, 2020 through July 4, 2020.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in dark ink on a light-colored background.

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James E. Timberland  
Administrative Law Judge

August 31, 2020  
Decision Dated and Mailed

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jet/sam