

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MONICA L RINEHART**  
Claimant

**APPEAL NO: 10A-UI-07339-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MERCY HOSPITAL**  
Employer

**OC: 04/18/10**  
**Claimant: Respondent (2/R)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed a representative's May 12, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. A telephone hearing was held on July 7, 2010. The claimant participated in the hearing. Eddie Brown, the human resource business partner, and Carolyn Childs, the coding manager, testified on the employer's behalf. Tony Saaco observed the hearing. During the hearing, Employer Exhibits One through Six were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on January 26, 2004. She worked as a full-time coder. The claimant had been coding out-patients. Starting in October 2009, she started training to code in-patient records. Childs supervised the claimant.

In December 2005, the claimant acknowledged she read and understood the employer's confidentiality agreement. One part of the agreement stated that employees can only look at protected health and confidential information needed to care and treat patients. Employees are not to look at protected health information that is not needed to perform their job. (Employer Exhibit Three.) The claimant attended staff meetings on February 10 and March 23, 2010. During these meetings, the employer talked about the National HIPAA policy. (Employer Exhibits Two and One.) During the March 23 meeting, employees were informed they could no longer access their own personal health records without going through the proper procedure. (Employer Exhibit One.)

On February 26, 2010, the employer sent an email to staff informing them that if anyone called asking for information about a baby born in February 2010, the call was to be directed to Phyllis

Hemann. (Employer Exhibit Six.) This directive was reinforced by putting signs by phones. (Employer Exhibit Five.)

On April 14, an employee talked to Childs about concerns she had with the claimant if she had been assigned to code a specific. (The baby mentioned in the previous paragraph.) The employer checked to see if the claimant had been assigned to code this chart and discovered the claimant had accessed a chart on March 19 and this chart on April 3, which she had not been assigned to code. The April 3 chart was the baby's chart. There was no obvious reason the claimant accessed either chart.

When the employer asked the claimant why she had accessed these charts, she indicated the March 19 access was done to make sure she had done the coding correctly. The claimant considered this access as part of her training. The claimant acknowledged she had no reason to access the April 3 chart and had done so out of curiosity.

The employer discharged the claimant on April 16, 2010, after concluding she intentionally violated the employer's confidentiality policy when she accessed a record on April 3.

The claimant established a claim for benefits during the week of April 18, 2010. She has filed for and received benefits since this date.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

First, the claimant's assertion that she did not access the record at issue on April 3 is not credible. This conclusion is based on the claimant's statements to the employer on April 16 where she admitted she had accessed the record without a business need to do so and had done so out of curiosity. If the claimant had not accessed the record, it is not logical that she would not have told the employer this on April 16 to save her job. Instead, the facts establish the claimant knew the employer wanted to keep this patient's records confidential and limited access to information about this patient. Also, the evidence suggests the claimant accessed this patient's record for personal reasons. Whether she accessed the records for personal reasons or out of curiosity, the claimant did not have any business reason for accessing this record. As a result, she intentionally violated the employer's policy. Given the fact the employer directed inquiries about this patient to one employee and the recent meetings about who could access HIPAA information, the employer established the claimant committed work-connected misconduct.

Since the employer did not know the claimant had accessed records on March 19 and April 3, until April 14, the employer established the claimant was discharged for a current act of work-connected misconduct. Therefore, as of April 18, 2010, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

**DECISION:**

The representative's May 12, 2010 decision (reference 01) is reversed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of April 18, 2010. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css