

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JERI L POLKINGHORN**  
Claimant

**APPEAL NO. 20A-UI-04919-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SIOUX CITY COMMUNITY SCHOOL DIST**  
Employer

**OC: 03/29/20**  
**Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.4(5) – Between Academic Terms Disqualification  
Iowa Admin. Code r. 871-24.13 – Wages Deductible From Unemployment Insurance Benefits  
Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits  
Public Law 116-136, Section 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Jeri Polkinghorn filed a timely appeal from the May 26, 2020, reference 01, decision that denied benefits effective March 29, 2020, based on the deputy's conclusion that Ms. Polkinghorn was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on June 25, 2020. Ms. Polkinghorn participated. Stefanie Verros, Assistant Director of Human Resources, represented the employer. The parties waived formal notice on the between academic terms disqualification issue. Exhibits 1, A and B and Department Exhibits D-1 through D-5 were received into evidence.

**ISSUES:**

Whether the claimant has been able to work and available for work since March 29, 2020.  
Whether the claimant has been temporarily and or partially unemployed since March 29, 2020.  
Whether the claimant is disqualified for benefits based on the between academic terms disqualification set forth at Iowa Code section 96.4(5).  
Whether the claimant has been overpaid regular benefits.  
Whether the claimant has been overpaid Federal Pandemic Unemployment Compensation.  
Whether the employer's account may be charged for regular benefits for the period beginning March 29, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Jeri Polkinghorn is employed by the Sioux City Community School District as a part-time Food Service Worker. Ms. Polkinghorn began the employment in August 2018 and last performed work for the employer on March 13, 2020. Ms. Polkinghorn is assigned to Liberty Elementary School. Ms. Polkinghorn usually worked 2.75 hours per day, 13.75 hours per week. Ms. Polkinghorn's wage is \$15.01 per hour. Wendy Arends, Site Manager, is Ms. Polkinghorn's supervisor.

On March 15, 2020, the District issued a broadcast message that the District's schools would be temporarily closing to prevent community spread of COVID-19. The closure was initially effective until April 14, 2020, but was later extended through the end of the school year. The school year ended on June 2, 2020.

The school closure impacted Ms. Polkinghorn in two ways. Ms. Polkinghorn's eight-year-old and seven-year-old sons were no longer able to attend their elementary school. Ms. Polkinghorn lacked childcare for her sons when they were not in school. The local after-school program shut down in connection with the school closure. The second impact concerned Ms. Polkinghorn's employment with the District. During the week of March 15-21, 2020, the District had no work for Ms. Polkinghorn. On Monday, March 23, 2020, Ms. Arends contacted Ms. Polkinghorn to offer her work cleaning schools. Ms. Polkinghorn indicated she could not perform the work due to a lack of childcare.

On March 24, 2020, Rich Luze, Food Service Director, contacted Ms. Polkinghorn to ascertain her intentions and to ask whether she wanted to use accrued sick leave. Ms. Polkinghorn elected to use accrued sick leave.

On March 24, 2020, Ms. Polkinghorn obtained a note from a nurse practitioner that stated as follows: "Due to several contributing medical conditions/diagnoses Pt is at high risk for COVID-19. Please excuse from work- ok to work from home, if able." Ms. Polkinghorn forwarded the note to the employer on March 24, 2020. Ms. Polkinghorn cites a history of asthma as the health issue that places her at increased risk in connection with COVID-19.

By March 27, 2020, Ms. Polkinghorn had exhausted her regular accrued sick leave. Mr. Luze contacted Ms. Polkinghorn and offered her the option of returning to work or remaining off work without pay. Ms. Polkinghorn elected to remain off work.

On April 1, 2020, the employer contacted Ms. Polkinghorn to let her know that she could apply for benefits under the Families First Coronavirus Response Act (FFCRA). Ms. Polkinghorn applied for the FFCRA benefits. Ms. Polkinghorn was approved for two weeks (10 days) of FFCRA benefits at the rate of 100 percent of her regular wage. Ms. Polkinghorn was approved for additional FFCRA benefits at two-thirds of her wage, based on her lack of childcare due to the school closing.

On May 14, 2020, the employer contacted Ms. Polkinghorn in writing to learn whether she intended to return to the same employment at the start of the 2020-2021 school year. The first day of school would be August 25, 2020. Ms. Polkinghorn would be needed a couple days before the first day of school. Ms. Polkinghorn advised the District that she intended to return to the same employment. From that point, there was a mutual understanding that Ms. Polkinghorn would be returning to her part-time position at Liberty Elementary at the beginning of the 2020-2021 academic year.

Ms. Polkinghorn established an original claim for unemployment insurance benefits that was effective March 29, 2020. Iowa Workforce Development set her weekly benefit amount at \$136.00. At the time of the June 25, 2020 appeal hearing, Ms. Polkinghorn had made weekly claims for the period of March 29, 2020 through June 20, 2020. Ms. Polkinghorn misreported her wages and received benefits that were based on the misreported wages. Ms. Polkinghorn reported wages and received regular benefits as follows. BWE means benefit week ending date.

<u>BWE</u>	<u>Wages</u>	<u>Vacation Pay</u>	<u>Holiday Pay</u>	<u>Regular Benefits Paid</u>
4/4/20	0.00	0.00	0.00	136.00
4/11/20	0.00	0.00	0.00	136.00
4/18/20	0.00	0.00	0.00	136.00
4/25/20	0.00	0.00	117.00	53.00
5/2/20	0.00	0.00	0.00	136.00
5/9/20	0.00	0.00	122.00	48.00
5/16/20	0.00	122.00	0.00	14.00
5/23/20	0.00	112.00	0.00	0.00
5/30/20	0.00	0.00	0.00	0.00
6/6/20	0.00	224.00	0.00	0.00
6/13/20	0.00	0.00	112.00	0.00
6/20/20	0.00	0.00	86.00	0.00

For each of the seven weeks between March 29, 2020 and May 16, 2020, IWD also paid Ms. Polkinghorn \$600.00 in Federal Pandemic Unemployment Compensation (FPUC). The FPUC benefits for that period totaled \$4,200.00

The District has provided paycheck records for the period between March 1, 2020 and May 24 2020. The District pays employees biweekly.

For the two-week period of March 29, 2020 through April 11, 2020, the District paid Ms. Polkinghorn \$41.28 in holiday pay and \$247.67 in FFCRA benefits. The holiday pay was for the week that ended April 11, 2020 and was the equivalent of one day's wages. The FFCRA payment was for the equivalent of 16.5 hours of work, 6 days' wages. Five of those work days fell during the week that ended April 11, 2020, meaning that \$206.00 of the FFCRA payment was for the week that ended April 11, 2020 and \$41.28 of the FFCRA payment was for the week that ended April 4, 2020.

For the two-week period of April 12-21, 2020, the District paid Ms. Polkinghorn \$302.72 in FFCRA benefits; \$165.12 of the benefits were for the week that ended April 18, 2020. \$137.60 of the FFCRA benefits were for the week that ended April 25, 2020.

For the two-week period of April 26, 2020 through May 9, 2020, the employer paid Ms. Polkinghorn \$275.20 in FFCRA benefits. \$137.60 of the FFCRA benefits were for the week that ended May 2, 2020. \$137.60 of the FFCRA benefits were for the week that ended May 9, 2020.

For the two-week period of May10-23, 2020, the employer again paid Ms. Polkinghorn \$275.20 in FFCRA benefits. \$137.60 of the FFCRA benefits were for the week that ended May 16, 2020. \$137.60 of the FFCRA benefits were for the week that ended May 23, 2020.

For the two-week period of May 24, 2020 through June 6, 2020, the District paid Ms. Polkinghorn \$206.44. \$41.28 of the payment was holiday pay for May 25, 2020, Memorial Day. \$110.08 was for FFCRA benefits for May 26-29, 2020. The remaining \$55.08 was for FFCRA benefits for June 1 and 2, 2020, with June 2 being the last day of school and last scheduled day of the employment before the summer break. Ms. Polkinghorn had not previously worked during the summer break and there was no expectation that she would work during the 2020 summer break.

Thus, an accurate reporting of Ms. Polkinghorn's wages for purposes of determining her eligibility for unemployment insurance benefits would have been as follows:

BWE	Wages	Vacation Pay	Holiday Pay
4/4/20	41.28	0.0	41.28
4/11/20	206.00	0.0	0.0
4/18/20	165.12	0.0	0.0
4/25/20	137.60	0.0	0.0
5/2/20	137.60	0.0	0.0
5/9/20	137.60	0.0	0.0
5/16/20	137.60	0.0	0.0
5/23/20	137.60	0.0	0.0
5/30/20	110.08	0.0	41.28
6/6/20	55.08	0.0	0.0
6/13/20	0.0	0.0	0.0
6/20/20	0.0	0.0	0.0

### 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(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

...

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

...

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

...

(41) The claimant became temporarily unemployed, but was not available for work with the employer that temporarily laid the claimant off. The evidence must establish that the claimant had a choice to work, and that the willingness to work would have led to actual employment in suitable work during the weeks the employer temporarily suspended operations.

In connection with the Covid-19 pandemic and passage of the Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Iowa Workforce Development published on its website a list of Covid-19-related scenarios under which a claimant would be eligible for unemployment insurance benefits. The scenarios create limited and temporary exceptions to the able and available requirements set forth at Iowa Code section 96.4(3). These scenarios include circumstances wherein the claimant is immune-compromised and has been advised to quarantine. The scenarios also include circumstances wherein the claimant's child's school has closed and the claimant lacks childcare. These scenarios also include circumstances wherein the claimant is employment by a school and availability of work is impacted by a school closure. See <https://www.iowaworkforcedevelopment.gov/COVID-19>, updated March 30, 2020.

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 and will again work, if the individual's employment, although temporarily suspended, has not been terminated. See Iowa Code Section 96.19(38)(c).

An individual shall be deemed partially unemployed in any week in which, 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. Iowa Code section 96.19(38)(b).

Iowa Code Section 96.3(3) provides:

Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code section 96.7(1) and (2) provides, in relevant part, as follows:

Employer contributions and reimbursements.

1. Payment. Contributions accrue and are payable, in accordance with rules adopted by the department, on all taxable wages paid by an employer for insured work.

2. Contribution rates based on benefit experience.

a. (1) The department shall maintain a separate account for each employer and shall credit each employer's account with all contributions which the employer has paid or which have been paid on the employer's behalf.

(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.

In response to the economic impact of COVID-19, Iowa Workforce Development published on its website Unemployment Insurance Guidance for Employers and Workers. As part of that publication, the Agency announced that claims filed as a direct or indirect result of Covid-19 would not be charged to employers. See <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>, Information for Employers.

Under the usual non-COVID-19 able and available analysis, Ms. Polkinghorn could not be deemed available for work within the meaning of the law for multiple reasons for the period beginning March 29, 2020. The first disqualifying factor would be the continuing lack of childcare. The second disqualifying factor would be the March 24 2020 medical note indicating that Ms. Polkinghorn cannot work due to medical issues. The third disqualifying factor would be Ms. Polkinghorn not being available for work with the District when the District continued to have work available for her. At no point since establishing the March 29, 2020 unemployment insurance claim has Ms. Polkinghorn been temporarily laid off or partially unemployed within the meaning of the law. The period of temporary layoff ended effective March 23, 2020, when the District commenced having suitable alternative work available for Ms. Polkinghorn. Ms. Polkinghorn was on an approved leave of absence from March 23, 2020 through June 2, 2020.

However, for the period of March 29, 2020 through June 20, 2020, Ms. Polkinghorn's circumstances fell within IWD's published COVID-19-related temporary and limited exceptions to the able and available requirements. During the period of March 29 through June 2, 2020, Ms. Polkinghorn's elementary school-aged children were out of school due to the school closing and an associated lack of childcare. During that same period, Ms. Polkinghorn's primary care provider had identified her as being at heightened risk in connection with COVID-19 and advised her to stay off work. After June 2, 2020, Ms. Polkinghorn's lack of childcare was no longer based on the school closing. However, Ms. Polkinghorn continued to be under the advice of her primary medical provider to not report to a workplace. Thus, under this amended able and available analysis, Ms. Polkinghorn met the able and available requirement for the period of March 29, 2020 through June 20, 2020. Ms. Polkinghorn would be eligible for benefits for the benefit weeks between March 29, 2020 and June 20, 2020, provided she met all other

eligibility requirements. The employer's account would not be subject to charge for benefits paid in connection with the COVID-19-based claim that was effective March 29, 2020.

Ms. Polkinghorn's eligibility for benefits is also impacted by the between academic terms disqualification set for that Iowa Code section 96.4(5), which provides as follows:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5 .Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

b. Benefits based on service in any other capacity for an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, if the individual performs the services in the first of such academic years or terms and has reasonable assurance that the individual will perform services for the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

c. With respect to services for an educational institution *in any capacity* under paragraph "a" or "b", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. For purposes of this subsection, "*educational service agency*" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

871 IAC 24.51(1) defines “educational institution” as follows:

Educational institution means public, nonprofit, private and parochial schools in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

871 IAC 24.51(3)(b) defines “nonprofessional employees” as follows:

Nonprofessional employees including educational service agency employees means persons who perform services in any capacity for an educational institution other than in instructional, research, or principal administrative capacity.

871 IAC 24.51(6) defines “reasonable assurance” as follows:

Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

871 IAC 24.52(4) provides as follows:

Nonprofessional employee.

a. Unemployment insurance payments which are based on school employment shall not be paid to a nonprofessional employee for any week of unemployment which begins between two successive academic years or terms if the individual has performed service in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services for the second academic year or term. However, unemployment insurance payments can be made based on non-school-related wage credits pursuant to subrule 24.52(6).

b. The nonprofessional employee may qualify for retroactive unemployment insurance payments if the school employment fails to materialize in the following term or year and the individual has filed weekly or biweekly claims on a current basis during the between terms denial period pursuant to subrule 24.2(1), paragraph “e.”

Based on the between academic terms disqualification provision of Iowa Code section 96.4(5)(b), Ms. Polkinghorn would not be eligible for benefits for the period beginning May 31, 2020, which was the start of the benefit week that included the June 2, 2020 last day of school. Sioux City Community School District is an “educational institution” affected by the between academic terms disqualification provision Iowa Code section 96.4(5)(d). Ms. Polkinghorn was a non-professional employee of the District during the 2019-2020 academic year and performed work for the District during the spring term. As of May 24, 2020, Ms. Polkinghorn had reasonable assurance of employment in a similar food service worker capacity during the 2020-



2021 academic year. While Ms. Polkinghorn asserts she was interested in working during the summer if the District had a need for her services, the assertion is dubious for multiple reasons, including the ongoing lack of childcare beyond the end of the school year. Ms. Polkinghorn lacks sufficient non-school base period wages to be eligible for benefits based on those non-school based wages. Accordingly, benefits are denied for the period beginning May 31, 2020.

The administrative law judge must further consider Ms. Polkinghorn's eligibility for weekly benefits in light of the payments the employer made to her for the weeks between March 29, 2020 and June 6, 2020. See Iowa Administrative Code Rules 871-24.13(1) and (2)(a), and 871-24.18. The FFCRA payments are fully deductible from unemployment insurance benefits on a dollar-per-dollar basis. See Iowa Administrative Code Rules 871-24.13(1) and 3(a) and (b). The holiday pay is considered wages that becomes deductible benefits on a dollar-per-dollar basis once the holiday pay, alone or in combination with other wages, exceeds \$34.00, which is one-fourth of Ms. Polkinghorn's \$136.00 weekly benefit amount.

For the week that ended April 4, 2020, the combined FFCRA payment and holiday pay equaled \$82.56 (rounded to \$83.00), meaning that \$83.00 was deductible from the \$136.00 weekly benefit amount. Accordingly, Ms. Polkinghorn was only eligible for \$53.00 in benefits for that week and not eligible for the extra \$83.00 she received.

For the six weeks that ended April 11, April 18, April 25, May 2, May 9, May 16, and May 23, 2020, Ms. Polkinghorn receive FFCRA benefits that exceeded her \$136.00 weekly unemployment insurance benefit amount and was, therefore, not eligible for benefits. Accordingly, Ms. Polkinghorn was not eligible for the \$523.00 in regular benefits she received for the six weeks between April 5, 2020 and May 23, 2020.

For the week that ended May 30, 2020, \$151.36 combined total of FFCRA benefits and holiday pay exceeded Ms. Polkinghorn's weekly benefit amount. Ms. Polkinghorn did not receive any benefits for that week.

For the week that ended June 6, 2020, Ms. Polkinghorn received \$55.08 in FFCRA benefits (rounded to \$55.00) that would be deducted from her unemployment insurance benefits on a dollar-per-dollar basis. Ms. Polkinghorn did not receive benefits for that week.

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Based on her misreporting of payments received from the employer, Ms. Polkinghorn was overpaid \$606.00 in regular benefits for the seven weeks between March 29, 2020 and May 23, 2020. Ms. Polkinghorn must repay the overpaid benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had

been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

For each week for which Ms. Polkinghorn is not eligible for regular benefits, she is also not eligible for FPUC benefits. The affected weeks are April 5, 2020 through June 20, 2020. Accordingly, the \$3,600.00 in FPUC benefits Ms. Polkinghorn received for the six weeks between April 5, 2020 and May 16, 2020 are an overpayment of benefits that Ms. Polkinghorn must repay. Because this decision concludes that Ms. Polkinghorn was eligible for partial regular benefits for the week that ended April 4, 2020, provided she was otherwise eligible, she is also eligible for FPUC benefits for the week that ended April 4 2020, provided she meets all other eligibility requirements.

**DECISION:**

The May 26, 2020, reference 01, decision is modified as follows. The claimant met the COVID-19-amended able and available requirements for the period of March 29, 2020 through May 30, 2020 and would be eligible for benefits for that period, so long as she met all other eligibility requirements. The claimant met the COVID-19 amended able and available requirements during the period of May 31, 2020 through June 20, 2020, but is not eligible for benefits for that period due to the between academic terms disqualification set forth at Iowa Code section 96.4(5). The claimant received wages that were deductible from her unemployment insurance benefits for the benefit weeks between March 29, 2020 and June 6, 2020. Based on the deductible wages, the claimant was eligible for \$53.00 in regular benefits for the week that ended April 4, 2020 and not eligible for regular benefits during the period of April 5, 2020 through May 30, 2020. The claimant was overpaid \$606.00 in regular benefits for the seven weeks between March 29, 2020 and May 23, 2020. The claimant was overpaid \$3,600.00 in FPUC benefits for the six weeks between April 5, 2020 and May 23, 2020. The claimant must repay the overpaid regular benefits and FPUC benefits. The employer's account shall not be charged for benefits in connection with this COVID-19 based claim.



---

James E. Timberland  
Administrative Law Judge

July 24, 2020  
Decision Dated and Mailed

jet/sam