

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HEATHER S NORTHRUP
Claimant

QUEST DIAGNOSTICS INC
Employer

APPEAL 20A-UI-06062-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1R)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.23(10) – Availability Disqualifications – Leave of Absence
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Heather S. Northrup, filed an appeal from the June 4, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2020. The claimant participated personally. The employer, Quest Diagnostics Inc., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

NOTE TO CLAIMANT: You may find additional information about food, housing, and other resources by dialing 211 or at <https://dhs.iowa.gov/node/3250>

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Is the claimant able to and available for work?
Is the claimant on a leave of absence?
Is the claimant still employed at the same hours and wages?
Is the employer’s account subject to charge?
Is the claimant overpaid benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established her claim with an effective date of March 29, 2020.

At the time of establishing her claim for benefits, claimant worked for this employer, as well as Aduro Inc. and Examination Management Services Inc. The claimant has worked part-time for each of the employers. She permanently separated from employment with Examination Management Services Inc. on July 2, 2020. The issue of her permanent separation from employment has yet been adjudicated by the Benefits Bureau.

The claimant has worked for this employer, Quest Diagnostics Inc., since 2015. She does not recall being guaranteed a set number of hours each week. Her hours have fluctuated throughout employment. Her schedule is determined by the appointments and events the employer has each week. Two of the claimant's primary job duties involve attending wellness fairs and performing in-home life insurance exams. Since COVID-19, her hours have decreased significantly.

Despite being denied benefits after the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog caused by the recent COVID 19 outbreak. The claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, the claimant filed for and received a total of \$404.00 in regular unemployment insurance benefits for the weeks between March 29, 2020 and May 30, 2020.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). She received \$2,400.00 in federal benefits for the four-week period ending May 30, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work effective March 29, 2020.

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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 96.1A, subsection 38, paragraph "b", subparagraph (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. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The administrative law judge recognizes claimant has filed her current claim due to hardship related to the COVID-19 pandemic. Because claimant agreed to work only part-time hours and was not guaranteed full-time hours, the claimant is not considered to be unemployed within the meaning of the law. When an individual agrees to work part-time, the implied agreement is that full-time work will not be regularly available. Thus since the employer continues to provide part-time hours and claimant is currently employed under the same hours and wages as contemplated any week that he works, she is not considered partially unemployed. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits.

The claimant's July 2, 2020 permanent separation from Examination Management Services Inc. is remanded to the Benefits Bureau for an initial investigation and decision.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/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. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

As the claimant has received benefits to which she was not entitled, the next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since the decision disqualifying the claimant has been affirmed, she was overpaid \$404.00 in regular unemployment insurance 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...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies the claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). In addition to the regular UI benefits she received an additional \$2,400.00 in FPUC benefits for the four-week period ending May 30, 2020. The claimant may have to repay the benefits received thus far, unless the claimant applies and is approved for PUA, as directed in the paragraph below.

DECISION:

The unemployment insurance decision dated June 4, 2020, (reference 01) is affirmed. The claimant is not able and available for work effective March 29, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.

REMAND: The claimant's July 2, 2020 permanent separation from Examination Management Services Inc. is remanded to the Benefits Bureau for an initial investigation and decision.

The claimant has been overpaid \$404.00 in regular unemployment insurance benefits. The claimant has also been overpaid \$2,400.00 in Federal Pandemic Unemployment Compensation. The claimant may have to repay the benefits received thus far, unless the claimant applies and is approved for PUA, as directed below.

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at: www.iowaworkforcedevelopment.gov/pua-information

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.



Jennifer L. Beckman
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July 31, 2020
Decision Dated and Mailed

jlb/mh