

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MOLLI R PETERSON**  
Claimant

**APPEAL NO: 12A-UI-07868-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CATHOLIC HEALTH INITIATIVES - IOWA**  
Employer

**OC: 05/20/12**

**Claimant: Respondent (2/R)**

Section 96.5-2-a – Discharge  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Catholic Health Initiatives - Iowa (employer) appealed a representative's June 19, 2012 decision (reference 01) that concluded Molli R. Peterson (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last known addresses of record, a telephone hearing was held on July 23, 2012. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Patti Steelman appeared on the employer's behalf and presented testimony from two other witnesses, Julia Anderson and Terri Whyte. One other witness, Kali Davis, was available on behalf of the employer but did not testify. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Reversed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on May 16, 2011. She worked full-time as a certified medical assistant at the employer's physical medicine and physical rehabilitation clinic. Her last day of work was May 23, 2012. The employer discharged her on that date. The stated reason for the discharge was falsification of a medical record.

One of the claimant's regular duties was to take and record a patient's vitals, including blood pressure, temperature, heart rate, pulse response, respiratory quality, and height. The employer had previously had concerns about instances it was concerned the claimant might not

have taken all of the necessary measurements that were recorded, and Anderson, the clinic manager, had previously informally counseled the claimant to make sure she was actually taking and properly recording the vitals. On May 23 it was observed and reported that the claimant had only been in with a patient for about two minutes. Anderson reviewed the patient's record and saw that there were vitals reported. She consulted with the patient, who indicated that only the blood pressure had been taken. Anderson then confronted the claimant, who admitted that she had not done the other vitals that she had noted on the record, indicating that she had been in a hurry. As a result of this falsification, the employer discharged the claimant.

The claimant established a claim for unemployment insurance benefits effective May 20, 2012. The claimant has received unemployment insurance benefits after the separation.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits, an employer must establish the employee was responsible for a deliberate act or omission that was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior that the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's deliberate falsification of the medical record shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of determining

the amount of the overpayment and whether the claimant is eligible for a waiver of overpayment under Iowa Code § 96.3-7-b is remanded the Claims Section.

**DECISION:**

The representative's June 19, 2012 decision (reference 01) is reversed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of May 23, 2012. This disqualification continues until the claimant 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 matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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