

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELIZABETH A GAVIN
Claimant

IOWA CATHOLIC CONFERENCE
Employer

APPEAL 21A-UI-03093-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Respondent (4)

Iowa Code § 96.19(38) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

On January 14, 2021, Iowa Catholic Conference (employer/appellant) filed an appeal from the January 6, 2021 (reference 04) unemployment insurance decision that allowed benefits beginning March 29, 2020, based on a finding claimant was able to and available for work and working when hours were available. Employer was not relieved of charges.

A telephone hearing was held on March 16, 2021. The parties were properly notified of the hearing. Claimant participated personally. Employer participated by Principal David Ortega and was represented by Paul Jahnke.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the employer's account subject to charge?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer on July 30, 2019. Claimant is still employed by employer as a custodian, regularly working approximately 30 hours per week.

There was less work available for claimant from March 29 through May 24, 2020. This is because employer was closed due to the pandemic. Claimant filed weekly claims for benefits each week from the benefit week ending April 4, 2020 through the benefit week ending May 30, 2020. Claimant was able to and available for work during these weeks.

Claimant reported her wages earned each week. Claimant's weekly benefit amount is \$234.00. Claimant reported earning wages less than her weekly benefit amount plus \$15.00 in the benefit weeks ending April 4, 2020 through May 9, 2020. She reported wages in excess of her weekly benefit amount plus \$15.00 in the benefit weeks ending May 16, 23, and 30, 2020.

Work was totally unavailable for claimant in the weeks ending November 28 and December 5, 2020, again due to the pandemic. Claimant was able to and available for work during that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 6, 2021 (reference 04) unemployment insurance decision that allowed benefits beginning March 29, 2020 is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth below. Employer shall not be charged for benefits paid.

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 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.

Claimant was partially unemployed and able to and available for work from the benefit week ending April 4, 2020 through the benefit week ending May 9, 2020, as she reported wages earned in an amount less than her weekly benefit amount plus \$15.00 in each of those weeks. Claimant is eligible for benefits in those weeks.

Claimant was totally unemployed and able to and available for work in the benefit weeks ending November 28 and December 5, 2020. Claimant is eligible for benefits in those weeks.

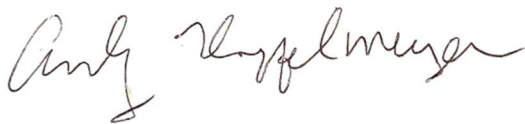
Claimant was not totally, partially, or temporarily unemployed in the benefit weeks ending May 16, 23, and 30, 2020, as she reported wages earned in excess of her weekly benefit amount plus \$15.00 in those weeks. Claimant is ineligible for benefits in those weeks.

Iowa Workforce Development has determined not to charge employers for benefits paid due to pandemic-related unemployment. Because claimant's unemployment was pandemic-related, employer shall not be charged.

The administrative law judge wishes to note that this decision does not impact the amount of benefits already paid to claimant nor does it result in an overpayment of benefits to claimant.

DECISION:

The January 6, 2021 (reference 04) unemployment insurance decision that allowed benefits beginning March 29, 2020 is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth above. Employer shall not be charged for benefits paid.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

March 19, 2021
Decision Dated and Mailed

abd/kmj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.