

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DEREK SIEDELMANN**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 20A-UI-04427-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Respondent (1R)**

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

**STATEMENT OF THE CASE:**

The employer/appellant, Advance Services Inc., filed an appeal from the May 19, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 8, 2020. The claimant 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 employer participated through Steve Volle, risk management director.

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.

**ISSUES:**

Is the claimant eligible for total or partial unemployment benefits?  
Is claimant employed for the same hours and wages?  
Is the claimant able to and available for work?  
Is the employer’s account subject to charges?  
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:  
Claimant began working for this employer on January 3, 2019. Claimant was employed as a full-time worker. He is still employed to date. His most recent job title is a general laborer with Syngenta. The assignment began on January 3, 2019. The claimant typically works 40 hours per week. He earns \$15.00 per hour.

Due to COVID 19, his hours have been reduced each week. Claimant is working all available hours. Claimant established a claim with an effective date of March 22, 2020. His weekly benefit amount is \$424.00.

Since March 22, 2020, he has worked reduced hours, as follows:

March 22-28, 2020	24.5 hours	\$367.50
March 29-April 4, 2020	25 hours	\$375.00
April 5-11, 2020	25.25 hours+ 8 hours holiday	\$498.75
April 12-18, 2020	24.75 hours	\$371.25
April 19-25, 2020	32.75 hours	\$487.50
April 26-May 1, 2020	33.5 hours	\$502.50
May 2-9, 2020	28.5 hours	\$427.50
May 10-16, 2020	28 hours	\$420.00
May 17-23, 2020	32 hours + 40 hours extra pay	\$1080.00
May 24-30, 2020	32.5 hours + 8 hours holiday	\$603.75

Claimant's administrative records establish that his base period included wages for full-time employment during each quarter. Employer is requesting relief of charges due to COVID-19.

Since establishing a claim for benefits, claimant has received \$950.00 in regular unemployment insurance benefits through May 23, 2020. He has received \$3600.00 in Federal Pandemic Unemployment Compensation (FPUC) also. Claimant's wages reported for each week do not match Employer's evidence presented at the hearing.

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

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", 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 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 § 96.7(2)a(2)a provides:

Contribution rates based on benefit experience.

a. (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.

(emphasis added).

Claimant's hours have been reduced from full-time to part-time due to the business needs of the employer. Claimant has been partially unemployed since March 22, 2020. Benefits are allowed, provided the claimant is otherwise eligible. The claimant must report gross earnings during each week claimed. The claimant's unrecorded wages in conjunction with his weekly continued claims are also remanded to the Benefits Bureau for an adjustment on weekly reported wages and possible overpayment.

The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

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 eligible for regular unemployment insurance (UI) benefits. Accordingly, this also qualifies claimant for Federal Pandemic Unemployment Compensation (FPUC).

**DECISION:**

The May 19, 2020 (reference 01) initial decision is affirmed. Claimant is partially unemployed. Benefits are allowed effective March 22, 2020, provided the claimant is otherwise eligible.

**REMAND:** The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

The claimant's unrecorded wages in conjunction with his weekly continued claims are also remanded to the Benefits Bureau for an adjustment on weekly reported wages and possible overpayment.



---

Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

June 12, 2020  
Decision Dated and Mailed

jlb/sam