

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**TARA R MCGREGOR**  
Claimant

**APPEAL 20A-UI-08285-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES MOINES IND COMMUNITY SCH DIST**  
Employer

**OC: 05/31/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(5)a-d - Eligibility – Reasonable assurance

**STATEMENT OF THE CASE:**

On July 15, 2020, Tara McGregor (claimant/appellant) filed an appeal from the July 13, 2020 (reference 01) unemployment insurance decision that denied benefits effective May 31, 2020, based on a finding that claimant was an employee of an educational institution and therefore not eligible for benefits between academic years or terms.

A telephone hearing was held on August 25, 2020. The parties were properly notified of the hearing. The claimant participated personally. Des Moines Ind Community Sch Dist (employer/respondent) participated by Benefits Specialist Rhonda Wagoner. Metro Kids Program Coordinator Bobbie Sheridan and Compensation and Classification Manager Emily Truitt participated as witnesses for employer.

Claimant's exhibits 1-4 were admitted. Employer's exhibit A was admitted. Official notice was taken of the administrative record.

**ISSUES:**

Is the claimant eligible for benefits between academic years or terms?

**FINDINGS OF FACT:**

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

Claimant's first day of employment was March 27, 2019. Claimant is still employed by employer as a part-time Assistant Enrichment Leader for employer's before and after school program. This position runs during the academic school year.

Claimant was anticipating working for employer's summer programming as well, and indicated a willingness to do so when employer inquired as to her availability for the program in late winter. This position was not guaranteed as part of claimant's part-time position during the academic year, nor was it otherwise guaranteed. Claimant and others had the option of declining to be available for the summer program.

Enrollment in the summer program was reduced to the pandemic. As a result, claimant was not offered a position for the program. This resulted in a loss of expected income for claimant.

Claimant received reasonable assurance at the end of the most recent academic year that her part-time position during the academic year would be available for her in the ensuing academic year. Claimant and employer expect she will return to work in that position beginning September 3, 2020.

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

For the reasons that follow, the July 13, 2020 (reference 01) unemployment insurance decision that denied benefits effective May 31, 2020 is **AFFIRMED**.

Iowa Code section 96.4(5) provides:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.1A, 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.

Iowa Admin. Code r. 871-24.51(6) provides:

School definitions.

(6) 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.

Claimant was and still is employed by employer as a part-time Assistant Enrichment Leader for employer's before and after school program. This position runs during the academic school year. Claimant received reasonable assurance at the end of the most recent academic year that her part-time position during the academic year would be available for her in the ensuing academic year. Claimant and employer expect she will return to work in that position beginning September 3, 2020.

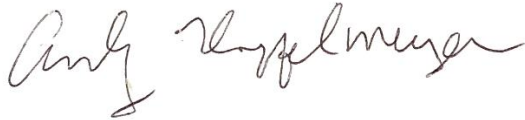
While claimant was anticipating working for employer's summer programming as well, and indicated a willingness to do so when employer inquired as to her availability for the program in late winter, this position was not guaranteed as part of claimant's part-time position during the academic year, nor was it otherwise guaranteed.

Because claimant performed services in the first of two successive academic years or terms and has reasonable assurance that she will perform services for the second of such academic years or terms, she is not eligible for benefits for any week of unemployment which begins during the period between those two successive academic years or terms.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

**DECISION:**

The July 13, 2020 (reference 01) unemployment insurance decision that denied benefits between academic years or terms effective May 31, 2020 is AFFIRMED. Benefits are denied.



---

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

August 27, 2020  
Decision Dated and Mailed

abd/mh

***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>.