

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BREANNA M ELLIOTT
Claimant

APPEAL 20A-UI-08893-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORPORATION
EMPLOYER

OC: 04/19/20
Claimant: Appellant (4R)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38)B – Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the July 16, 2020 (reference 02) unemployment insurance decision that denied unemployment insurance benefits effective April 19, 2020 finding that the claimant was working enough hours to be considered employed. After due notice was issued, a telephone hearing was held on September 11, 2020. The claimant participated personally. The employer, Central Iowa Hospital Corporation, participated through witness Mitchell Spivey. Employer's Exhibit 1 was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

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?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant works for this employer full-time as a patient access associate. She began her employment on August 9, 2017 and continues to be employed to date. Her normal working hours are Monday through Friday each week from 8:00 a.m. to 4:30 p.m.

Claimant's administrative records establish that she filed her original claim for State of Iowa unemployment insurance benefits effective April 19, 2020. Her weekly benefit amount is \$496.00. She was notified that the employer was reducing her hours due to low patient census. The employer contends this low census was due to the COVID 19 pandemic.

For the week of April 19, 2020 through April 25, 2020 the claimant worked 24 hours at the hourly rate of pay of \$17.61. She earned \$422.64 in gross wages that week but incorrectly reported her wages earned when she filed her weekly continued claim.

For the week of April 26, 2020 through May 2, 2020 the claimant worked 28.75 hours at the rate of \$18.13 per hour. She earned \$521.23 in gross wages that week but incorrectly reported her wages earned when she filed her weekly continued claim.

For the week of May 3, 2020 through May 9, 2020, the claimant worked 32.75 hours at the rate of \$18.13 per hour. She earned \$593.75 in gross wages that week but incorrectly reported her wages earned when she filed her weekly continued claim.

For the week of May 10, 2020 through May 16, 2020 the claimant worked 29 hours at the rate of \$18.13 per hour. She earned \$525.77 in gross wages that week but incorrectly reported her wages earned when she filed her weekly continued claim.

For the week of May 17, 2020 through May 23, 2020 the claimant worked 32 hours at the rate of \$18.13 per hour. She earned \$580.16 in gross wages that week but incorrectly reported her wages earned when she filed her weekly continued claim.

For the week of May 24, 2020 through May 30, 2020 the claimant worked 24 hours at the rate of \$18.13 per hour and was also paid PTO of 8 hours at the rate of \$18.13 per hour. She earned \$580.16 in gross wages that week but incorrectly reported her wages earned when she filed her weekly continued claim.

For the week of May 31, 2020 through June 6, 2020 the claimant worked 27.75 hours at the rate of \$18.13 per hour and was also paid PTO of 5 hours at the rate of \$18.13 per hour. She earned \$593.75 in gross wages that week but incorrectly reported her wages earned when she filed her weekly continued claim.

As of June 7, 2020, the claimant has been working her normal full-time schedule. When the claimant filed her weekly-continued claim for benefits she incorrectly reported the gross wages she was earning each week, as she miscalculated her earnings. Claimant was paid unemployment insurance benefits of \$116.00 for the week-ending May 30, 2020. Claimant was able to and available for full-time hours for each of the weeks in which her hours were reduced due to low census.

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".

(emphasis added).

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 Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

In this case, the claimant earned wages in excess of her weekly-benefit amount, plus fifteen dollars for every single weekly-continued claim she filed except the week of April 19, 2020 through April 25, 2020 when she earned \$422.64. Because the claimant has earned wages in excess of her weekly-benefit amount, plus fifteen dollars, for the weeks of April 26, 2020 through June 6, 2020, she cannot be considered partially unemployed for those weeks. See Iowa Code 96.19(38) and Iowa Admin. Code r. 871-24.18. Claimant was not otherwise eligible for benefits from April 26, 2020 through June 6, 2020 because she had excess earnings above her weekly-benefit amount, plus fifteen dollars.

For the week of April 19, 2020 through April 25, 2020, the claimant was able to and available for full-time work; however, full-time work was not available to her because of low census. The employer contends that the low census reduction in her hours was due to the COVID 19 pandemic.

The chargeability issue and whether the employer's account may be charged for benefits paid to the claimant due to her lack of work because of the COVID 19 pandemic is remanded to the Tax

Bureau of Iowa Workforce Development for an initial investigation and determination. The potential overpayment issue for the benefits paid the week-ending May 30, 2020 and the underpayment issue for the benefits not paid for the week-ending April 25, 2020 will be remanded to the Benefits Bureau for an initial investigation and determination.

The claimant is reminded that she must report gross wages earned each week when filing her weekly-continued claim for benefits. Calculation of gross wages earned is covered under the claimant handbook online and can be found at the following website:

<https://www.iowaworkforcedevelopment.gov/continued-eligibility>.

The handbook provides that: “Gross earnings or gross wages are your earnings before taxes or other payroll deductions are made. Earnings or wages must be reported on the weekly claim during the week the wages are earned, not when the wages are paid. Earnings must be reported even if you have not yet received the payment. To calculate the amount to report, multiply the number of hours you worked by your hourly wage.

Example: 10 hours X \$12.00/hour = \$120.00 in gross earnings

You should report the full gross amount of earnings and we will calculate any deductions. Deductions and/or earnings are calculated differently depending on the type of income. See the general guidelines on deductibility below.”

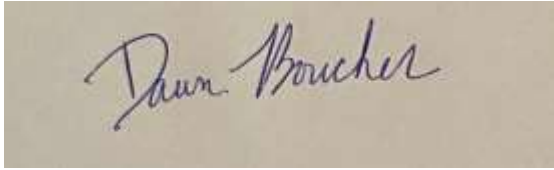
DECISION:

The July 16, 2020 (reference 02) decision is modified in favor of the appellant. Claimant has been able to and available for work. Claimant was partially unemployed for the one-week period of April 19, 2020 through April 25, 2020. Benefits are allowed from April 19, 2020 through April 25, 2020 subject to a deduction of gross wages earned that week in the amount of \$422.64 pursuant to Iowa Code § 96.3.

Claimant earned wages in excess of her weekly-benefit amount, plus fifteen dollars, from April 26, 2020 through June 6, 2020 and is not eligible for benefits during that period of time.

REMAND:

The overpayment issue for the benefits paid for the week-ending May 30, 2020 and the underpayment issue for nonpayment of benefits for the week-ending April 25, 2020 are remanded to the Benefits Bureau for an initial investigation and determination. The chargeability issue delineated in the findings of fact of whether the employer’s account may be charged for benefits paid for the week-ending April 25, 2020 due to the COVID 19 pandemic is remanded to the Tax Bureau of Iowa Workforce Development for a determination of allocation of charges.



Dawn Boucher
Administrative Law Judge

September 15, 2020
Decision Dated and Mailed

db/sam

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.