

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TERESA J SCHLOSS
Claimant

APPEAL NO: 06A-UI-08147-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PEOPLES MEMORIAL HOSPITAL
BUCHANAN COUNTY HEALTH CENTER**
Employer

**OC: 07/09/06 R: 04
Claimant: Appellant (1)**

Section 96.3-5 – Benefit Calculation Related to Business Closure

STATEMENT OF THE CASE:

Teresa J. Schloss (claimant) appealed a representative's August 2, 2006 decision (reference 01) that concluded she was not qualified to receive extended unemployment insurance benefits as her separation from Peoples Memorial Hospital, Buchanan County Health Center (employer) did not qualify as a layoff due to a business closure. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 29, 2006. The claimant participated in the hearing. Amber Youngblut appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible for benefits calculated as due to a business closing?

FINDINGS OF FACT:

The claimant started working for the employer on July 26, 2004. She worked full time as a registered nurse (R. N.) in the home health department of the employer's hospital. Her primary duties were providing at home care to persons within the community, but she did occasionally fill in as a substitute school nurse. Her last day of work was May 26, 2006.

In approximately mid-March 2006, the 18 employees of the home health department, housed within the hospital, were advised that due to budget cuts and duplication of services offered by other providers in the community, the department would be eliminated. They were advised that the individual positions would be eliminated as work decreased, but that the closure of the department would be complete by June 30, 2006. The 18 employees were informed they could make application for other positions within the hospital, which continues to employ approximately 214 employees. Eight of the 18 did find new positions, six of which were in a new public health department created to provide health education services regarding such things as contagious diseases. The claimant did not find another position with the employer.

Her position ended as of May 26 because the employer had no further work for her after that date.

REASONING AND CONCLUSIONS OF LAW:

Normally, the maximum total amount of benefits payable to an eligible individual during a benefit year is the lesser of 26 times the individual's weekly benefit amount or the total of the claimant's base period wage credits. However, if the claimant is laid off due to the claimant's employer going out of business at the factory, establishment, or other premises at which the claimant was last employed, the maximum benefits payable is usually extended to the lesser of 39 times the claimant's weekly benefit amount or the total of the claimant's wage credits. Iowa Code § 96.3-5. Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business. 871 IAC 24.29.

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The separation was a permanent layoff due to a lack of work by the employer, and regular unemployment insurance benefits are allowed. However, the department of the hospital which was eliminated by the employer was not a clearly segregable business entity, establishment, or premises that has closed its doors and ceased to function, but was a function of the overall hospital organization, which continues to operate and employ personnel. Therefore, claimant is not entitled to a redetermination of benefits as extended business closing benefits.

DECISION:

The representative's August 2, 2006 (reference 01) decision is affirmed. The claimant was permanently laid off due to lack of work, but not due to a business closure. Recalculation of the claimant's benefits as extended business closure benefits is denied.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs