

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LINDSEY MEIER
Claimant

APPEAL 20A-UI-12805-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PHYSICIANS CLINIC MEDICAL FO
Employer

OC: 04/19/20
Claimant: Appellant (1)

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. 871-24.22(2)i(3) – Benefit Eligibility - On-call Wage Credits

STATEMENT OF THE CASE:

On October 14, 2020, the claimant filed an appeal from the October 9, 2020 (reference 01) unemployment insurance decision that denied unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 8, 2020. Claimant participated. Employer did not register for the hearing and did not participate.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Is the claimant able to and available for work?
Is the claimant an on-call worker?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began employment with the employer, Iowa Physicians Clinic, as a part-time patient service representative in May 2014. Claimant's regular full-time schedule is at Iowa Physicians Clinic prior to her claim period was 8.5 hours per week. Her hourly rate at the time was \$12.96.

Claimant began employment with Hillside Wesleyan Church in 2016. Ever since being hired in 2016, claimant has worked 20 hours per week with an hourly wage of \$20.00 per hour as a children's ministry director for a gross weekly pay of \$400.00 per week.

Beginning April 19, 2020, employer reduced claimant's hours due to a reduction in work caused by Covid-19. From April 19, 2020 to August 28, 2020, the claimant's supervisor, Katherine Read, assigned hours to claimant on an as-needed basis. Claimant's hourly wage is \$17.75. Claimant filed an initial claim for unemployment insurance benefits effective April 19, 2020. Claimant's weekly benefit amount is \$184.00.

REASONING AND CONCLUSIONS OF LAW:

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.

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 96.1A, 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 Admin. Code r. 871-24.22(2)i(3) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market....

i. On-call workers.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code section 96.19(38)"a" and "b." An individual who is willing to accept only on-call work is not considered to be available for work.

Iowa Admin. Code r. 871-24.23(26) provides:

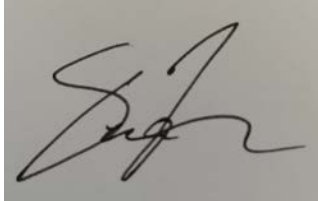
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

To be partially unemployed for any given week, claimant must work less than 20 hours per week (claimant's regular full-time schedule) and earn less than \$184.00 (claimant's weekly benefit plus \$15.00). Claimant has been scheduled for a minimum of 20 hours per week at Hillside Wesleyan Church from 2016 to 2020. Claimant's earnings for working 20 hours per week is \$400.00, which is greater than \$184.00. This is without examining what claimant received in earnings from Iowa Physicians Clinic. Because claimant has earned more than her weekly benefit amount plus \$15.00 each week since April 19, 2020, claimant has not been partially unemployed. Since claimant cannot be found to be partially unemployed, the issues regarding her being able and available and whether she is an on-call worker are moot. Benefits are denied.

DECISION:

The October 9, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not considered unemployed under Iowa law. Regular unemployment insurance benefits funded by the state of Iowa are denied.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

December 31, 2020
Decision Dated and Mailed

smn/scn