

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DEBRA L EDWARDS**

Claimant

**APPEAL 20A-UI-04676-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**

Employer

**OC: 04/12/20**

**Claimant: Respondent (5R)**

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  
Iowa Code § 96.3(7) – Overpayment of Benefits  
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Part time, same hours and wages  
PL 116-136 Section 2104(B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the May 21, 2020 (reference 02) unemployment insurance decision that found claimant was eligible for unemployment benefits and that the employer will not be relieved of charges. The parties were properly notified of the hearing. A telephone hearing was held on June 12, 2020. The claimant, Debra L. Edwards, participated personally. The employer, Advance Services Inc., participated through witness Melissa Lewien. 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?  
Is the claimant overpaid benefits?  
Is the claimant overpaid Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant started working for this employer on January 21, 2020. She is still employed to date. This employer is a temporary employment firm and that claimant works as a temporary employee. She was assigned to work full-time at Syngenta in the greenhouse. Claimant filed her original claim for benefits effective April 12, 2020. Her weekly-benefit amount is \$179.00. Claimant's administrative records establish that her base period included the following wages:

	2019/1	2019/2	2019/3	2019/4
City of Ames	1770	3691	2843	2912
Heart of Iowa Regional Tr	2180			

Claimant's administrative records establish that she has filed weekly-continued claims for benefits for the week-ending April 18, 2020; April 25, 2020; May 2, 2020; and May 9, 2020. Claimant has not received any regular unemployment insurance benefits for any weekly-continued claims filed because the amount of wages she earned each week have exceeded her weekly-benefit amount, plus \$15.00.

As of March 22, 2020, claimant's full-time hours at Syngenta were reduced to part-time hours due to the COVID 19 pandemic. Since that time, claimant has been working a reduced work schedule in order for the employer to comply with social distancing requirements in the greenhouse.

As of May 25, 2020, claimant has suffered from a personal medical issue that has limited her ability to work full-time hours. She has discussed with her supervisor at Syngenta only working five hours per day.

### **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 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).

In this case, the claimant has not been totally unemployed for any weekly-continued claims that have been filed to date. However, the claimant has worked a reduced work schedule during the weeks in which she has already filed weekly-continued claims. In each of those weeks, she has earned wages in excess of her weekly-benefit amount, plus fifteen dollars. As such, because the claimant has earned wages in excess of her weekly-benefit amount, plus fifteen dollars, she cannot be considered partially unemployed for the weeks-ending April 18, 2020; April 25, 2020; May 2, 2020; and May 9, 2020. Benefits are denied for those weeks.

As of May 25, 2020, claimant is only available to work five hours per day due to her personal medical issues. However, her base period only reflects part-time wages. Because the claimant has not been totally or partially unemployed for any of the weeks in which she had filed weekly-continued claims for benefits, benefits are denied for those weeks. Claimant has established her ability and availability for work consistent with her base period. As such, benefits are allowed, *provided she is otherwise eligible*. Claimant must continue to report gross wages earned for each weekly-continued claim she is filing. Because there have been no regular unemployment insurance benefits or Federal Pandemic Unemployment Compensation benefits paid to date, the claimant is not overpaid benefits.

The employer contends that the reduction in hours was due to the COVID 19 pandemic. The chargeability issue and whether the employer's account may be charged for any future benefits paid to the claimant due to her reduction in hours worked because of the COVID 19 pandemic is remanded to the Tax Bureau of Iowa Workforce Development for an initial investigation and determination.

**Note to Claimant:** If this decision determines you are not eligible for regular unemployment insurance benefits and 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.

Individuals who do not qualify for regular unemployment insurance benefits, but who are currently 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The May 21, 2020 (reference 02) decision is modified with no change in effect. Claimant has established her ability to and availability for work. Benefits are allowed effective May 10, 2020, provided the claimant is otherwise eligible. The claimant must report all gross wages earned when filing any weekly-continued claims for benefits.

**REMAND:**

The chargeability issue delineated in the findings of fact of whether the employer's account may be charged for future benefits paid due to the COVID 19 pandemic is remanded to the Tax Bureau of Iowa Workforce Development for a determination of allocation of charges.

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Dawn Boucher  
Administrative Law Judge

June 25, 2020  
Decision Dated and Mailed

db/scn