

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICHOLAS D FISHER
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 21R-UI-13094-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/04/20
Claimant: Appellant (4)

Iowa Code § 96.1A(37) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

On January 25, 2021, Nicholas Fisher (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated January 20, 2021 (reference 01) that denied benefits as of November 22, 2020 based on a finding claimant was still employed for the same hours and wages.

A telephone hearing was set for March 31, 2021 at 9 a.m. Claimant did not register a number at which he could be reached for the hearing. After waiting 15 minutes from the hearing start time as a courtesy to claimant, the undersigned issued a default decision. Claimant appealed the default decision to the Employment Appeal Board (EAB). The EAB remanded for a new hearing.

A telephone hearing was held on July 12, 2021. The parties were properly notified of the hearing. Claimant participated personally. The University of Iowa (employer/respondent) participated by HR Business Analyst Jessica Wade. Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?

FINDINGS OF FACT:

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

Claimant began working for employer on June 12, 2017. Claimant is still employed by employer as a part-time Staff Nurse. In this position claimant works 24 hours over the weekends.

Claimant's hours were reduced from October 4 through 17, 2021 due to furlough. Claimant was able and available for work during the furlough. Claimant filed a claim for benefits in the weeks ending October 10 and 17, 2020. Claimant worked from 7 p.m. on October 4 until 7 a.m. on

October 5, 2020. He next worked from 7 p.m. on October 17 until 7 a.m. on October 18, 2020. Claimant returned to his usual hours after that time.

Claimant's hourly wage was \$27.94. For the week from October 4 through October 10 he worked 12 hours for total wages earned of \$335.28. For the week from October 11 through 17 he worked five hours, from 7 p.m. on October 17 until midnight on October 17. He earned wages totaling \$139.70 during that week. Claimant's weekly benefit amount is \$512.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated January 20, 2021 (reference 01) that denied benefits as of November 22, 2020 based on a finding claimant was still employed for the same hours and wages is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth below.

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 96.19, subsection 38, paragraph "b", unnumbered paragraph (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 Code section 96.1A(37) 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.

The administrative law judge finds claimant was partially unemployed and eligible for benefits in the weeks ending October 10 and 17, 2020. This is because claimant was working less than usual each week due to furlough, earned less than his weekly benefit amount plus \$15.00 in each week, and remained able and available during that period.

DECISION:

The decision dated January 20, 2021 (reference 01) that denied benefits as of November 22, 2020 based on a finding claimant was still employed for the same hours and wages is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth above.



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

July 22, 2021
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>.