

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NICOLE SPORRER
Claimant

APPEAL NO. 20A-UI-05912-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATHOLIC HEALTH INITIATIVES - IOWA
Employer

OC: 04/05/20
Claimant: Appellant (4)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.19(38) –Temporary & Partial Unemployment

STATEMENT OF THE CASE:

Claimant Nicole Sporrer and the employer each filed a timely appeal from the June 4, 2020, reference 01, decision that denied benefits effective April 5, 2020, based on the deputy's conclusion that that Ms. Sporrer was still employed with the same hours and wages and could not be deemed partially unemployed. The employer filed an appeal on June 11, 2020. The claimant filed her appeal on June 12, 2020. The claimant was the only party aggrieved by the decision. After due notice was issued, a hearing was held on July 14, 2020. Ms. Sporrer participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibits 1 and A were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant has been able to work and available for work since April 5, 2020.
Whether the claimant has been temporarily unemployed and/or partially unemployed since April 5, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Nicole Sporrer is employed by Catholic Health Initiatives – Iowa as a part-time “PRN,” as needed, Patient Access Representative. About three years ago, Ms. Sporrer transitioned from full-time employment with the employer to the PRN status. As a PRN employee, Ms. Sporrer provides the employer with a statement of her availability and the employer offers the hours the employer needs Ms. Sporrer to work. Ms. Sporrer is in the habit of accepting all offered hours. Ms. Sporrer performs work for the employer at three or four locations. Ms. Sporrer primarily works at MercyOne Iowa Heart Center in West Des Moines. Until March 26, 2020, Ms. Sporrer usually worked for the employer three days per week.

As of about March 26, 2020, the employer temporarily ceased having work for Ms. Sporrer at MercyOne Iowa Heart Center. The decrease in the need for Ms. Sporrer's services as based

COVID-19 related business slowdown. The Iowa Heart Center continued to not have work for Ms. Sporrer through the end of June 2020. Catholic Health Initiatives made intermittent work available to Ms. Sporrer at another location. Ms. Sporrer continued to be available for work and performed all of the work the employer had for her.

Ms. Sporrer established an original claim for benefits that was effective April 5, 2020. Iowa Workforce Development set her weekly benefit amount for regular benefits at \$214.00. Ms. Sporrer made weekly claims for the eight weeks between April 5, 2020 and May 30, 2020. For the weeks that ended April 11, 18 and 25, 2020, Ms. Sporrer reported zero wages and received \$214.00 in weekly benefits. For the week that ended May 2, 2020, Ms. Sporrer reported \$117.00 in wages and received \$150.00 in reduced benefits. For the week that ended May 9, 2020, Ms. Sporrer reported zero wages and received \$214.00 in benefits. For the week that ended May 23, 2020, Ms. Sporrer reported \$130.00 in wages and received \$137.00 in reduced benefits. For the week that ended May 30, 2020, Ms. Sporrer reported \$143.00 in wages and received \$124.00 in benefits. In addition to the regular benefits, IWD also paid Ms. Sporrer \$600.00 in Federal Pandemic Unemployment Compensation for each of the eight weeks between April 5, 2020 and May 30, 2020. Ms. Sporrer discontinued her claim after the benefit week that ended May 30, 2020.

REASONING AND CONCLUSIONS OF LAW:

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 Admin. Code r. 871-24.22(2) 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. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to

compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

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 96.19(38)(c).

An individual shall be deemed partially unemployed in any week in which, 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. Iowa Code Section 96.19(38)(b).

Iowa Code Section 96.3(3) provides:

Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code section 96.7(1) and (2) provides, in relevant part, as follows:

Employer contributions and reimbursements.

1. Payment. Contributions accrue and are payable, in accordance with rules adopted by the department, on all taxable wages paid by an employer for insured work.

2. Contribution rates based on benefit experience.

a. (1) The department shall maintain a separate account for each employer and shall credit each employer's account with all contributions which the employer has paid or which have been paid on the employer's behalf.

(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.

In response to the economic impact of the COVID-19 pandemic, Iowa Workforce Development published on its website Unemployment Insurance Guidance for Employers and Workers. As part of that publication, the Agency announced that claims filed as a direct or indirect result of Covid-19 would not be charged to employers.

See <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>, Information for Employers.

The evidence in the record establishes that Ms. Sporrer was able to work and available for work during each of the benefit weeks between April 5, 2020 and May 30, 2020. During the weeks that ended April 11, April 18, April 25, and May 16, 2020, Ms. Sporrer was temporarily unemployed. During the weeks that ended May 2, May 9, May 23, and May 30, 2020, Ms. Sporrer was partially unemployed. Ms. Sporrer is eligible for benefits for each of the weeks between April 5, 2020 and May 30, 2020, provided she meets all other eligibility requirements. Based on the Agency's announcement that employer's would not be charged for benefits in connection with claims based on COVID-19, the employer's account will not be charged for benefits paid to Ms. Sporrer for the eight weeks between April 5, 2020 and May 30, 2020.

DECISION:

The June 4, 2020, reference 01, decision is modified in favor of the claimant as follows. The claimant was able to and available for work during the eight weeks between April 5, 2020 and May 30, 2020. The claimant was temporarily unemployed during the benefit weeks that ended April 11, April 18, April 25, and May 16, 2020. The claimant was partially unemployed during the weeks that ended May 2, May 9, May 23, and May 30, 2020. The claimant is eligible for benefits for each of the eight weeks between April 5, 2020 and May 30, 2020, provided she meets all other eligibility requirements. In light of the COVID-19 basis for the claim, the employer's account shall not be charged for benefits paid to the claimant for the eight weeks between April 5, 2020 and May 30, 2020,



James E. Timberland
Administrative Law Judge

July 22, 2020
Decision Dated and Mailed

jet/scn