

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CHARLES A CURL**  
Claimant

**APPEAL 20A-UI-13764-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 06/28/20**  
**Claimant: Appellant (4R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant/appellant, Charles A. Curl, filed an appeal from the October 27, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 31, 2020. The claimant participated. The employer, The University of Iowa, participated through Jessica Wade. At the time of the hearing, both parties waived proper notice of whether the claimant was able to and available for work, whether he met the definition of partially unemployed, and whether the employer was subject to any charges. The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Does the claimant meet the definition of being considered partially unemployed?  
Is the claimant able to work and available for work effective June 28, 2020?  
If so, is the employer’s account liable for potential charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has worked for the employer since 2009. He works year-round and does not operate on an academic calendar or yearly contract. He is currently a kitchen helper I, earning \$19.39 per hour. Claimant’s work schedule is 40 hours per week.

Claimant established his claim for benefits with an effective date of June 28, 2020. His weekly benefit amount is \$493.00. For the week ending July 4, 2020, claimant worked 24 hours. Employer then temporarily laid off claimant and he was not compensated for the 16 other hours he did not perform work for the week. Claimant’s gross wages earned for the week were \$467.28. Claimant reported he earned \$309.00 when making his weekly continued claim.

Claimant did not perform any work for the next two week period, between July 5 and July 18, 2020 due to being temporarily laid off by the employer. He was not compensated for this period by employer. He returned to work during the week of July 19, 2020 and discontinued making weekly continued claims. Claimant worked all available hours for the three week period he filed for unemployment insurance benefits.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge finds the claimant is eligible for unemployment insurance benefits for the period of June 28, 2020 through July 18, 2020.

For an unemployed individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

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 section 96.7(2)a(2)(a), (b), and (c) provides:

2. 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.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

**For the week of June 28, 2020 through July 4, 2020:** Claimant is considered partially unemployed as he did perform some work and his wages were not in excess of his weekly benefit amount plus fifteen dollars. Benefits are allowed, provided he is otherwise eligible. The issue of claimant's unrecorded wages for the week ending July 4, 2020 is remanded to the Benefits Bureau for an adjustment.

**For the period of July 5 through July 18, 2020:** Claimant was totally unemployed due to a lack of work. Benefits are allowed, provided claimant is otherwise eligible.

Employer may be charged for benefits associated with this claim.

**DECISION:**

The unemployment insurance decision dated October 27, 2020, (reference 01) is modified in favor of claimant/appellant. Claimant was partially unemployed for the week ending July 4, 2020 and totally unemployed for the two-week period ending July 18, 2020. Benefits are allowed, provided he is otherwise eligible.

**REMAND:**

The issue of claimant's unrecorded wages for the week ending July 4, 2020 is remanded to the Benefits Bureau for an adjustment.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

January 19, 2021  
Decision Dated and Mailed

jlb/mh

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits. If 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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:  
[www.iowaworkforcedevelopment.gov/pua-information](http://www.iowaworkforcedevelopment.gov/pua-information)