

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARY J GOODSON-OAKLEY
Claimant

APPEAL NO. 14A-UI-12594-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORP
Employer

OC: 11/09/14
Claimant: Appellant (2)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.4(3) – Still Employed Same Hours and Wages
Iowa Code Section 96.7(2) – Employer Liability

STATEMENT OF THE CASE:

Mary Goodson-Oakley filed a timely appeal from the December 3, 2014, reference 04, decision that denied benefits effective November 9, 2014, based on an agency conclusion that she was not partially unemployed from her employment with Central Iowa Hospital Corporation. After due notice was issued, a hearing was held on January 6, 2015. Claimant participated. Lindsey Schuman, Human Resources Business Partner, represented the employer. The administrative law judge took official notice of the Agency's administrative record of wages reported by or for the claimant and benefits disbursed to the claimant (DBRO, WAGEA, and KCCO).

In light of the December 22, 2014, reference 07, decision that denied benefits effective November 30, 2014, based on an Agency conclusion that the claimant was not at that point partially unemployed from her employment with Central Iowa Hospital Corporation, the scope of the present decision is limited to the three-week period of November 9, 2014 through November 29, 2014.

ISSUES:

Whether the claimant was been able to work and available for work during the three-week period of November 9, 2014 through November 29, 2014.

Whether the claimant was partially unemployed during the three-week period of November 9, 2014 through November 29, 2014.

Whether the employer's account may be assessed for benefits that might be paid to the claimant for the three-week period of November 9, 2014 through November 29, 2014.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mary Goodson-Oakley began her employment with Central Iowa Hospital Corporation, Lutheran Hospital, in 2008 as a part-time unit clerk. Shortly after starting the employment, the claimant became a full-time unit clerk in the geriatric mental health unit. The claimant subsequently transitioned to a full-time psychiatric technician position. In January 2014 the claimant suffered a workplace injury to her right wrist. In March or April 2014 the claimant suffered a workplace injury to her left shoulder. Thereafter, the claimant was restricted from lifting more than 25 pounds and restricted from restraining patients. In April 2014 the claimant transitioned from the psych tech position in geriatric mental health to a similar position in adult mental health. The change in position carried with it a reduced amount of lifting and restraining of patients. Since July 2014 the claimant has not had any medical restrictions applicable to her right wrist. When the claimant started in the adult mental health unit in July, she initially received full-time work hours. Shortly after the claimant started in the new unit, the supervisor in the adult mental health unit told the claimant that he no longer had full-time hours available for the claimant and that she would have to go to prn, as-needed status, if she wished to continue working in the unit. The claimant wished to continue working in the unit. The claimant reluctantly acquiesced in prn status so that she could continue to work in the unit while she recovered from her workplace shoulder injury. The transition to prn status took place on paper no later than August 9, 2014 though wages reported by the employer to Workforce Development indicating that the claimant continued to work full time or close to full time at Central Iowa Hospital Corporation beyond August 2014.

In August 2014 the claimant started other employment at the Iowa Clinic. The claimant worked at the Iowa Clinic from August 12, 2014 but involuntarily separated from that employment on November 6, 2014. The position at the Iowa Clinic did not require any lifting and allowed the claimant to sit at a desk.

As of October 2014 the claimant was released to full-duty, with the directive that she continue with physical therapy. At the time the claimant established her claim for unemployment insurance benefits, her hourly wage for prn work at Central Iowa Hospital Corporation was \$14.14.

The claimant established a claim for benefits that was effective November 9, 2014, in response to the separation from her employment at the Iowa Clinic. Workforce Development calculated the claimant's weekly benefit amount at \$416. In other words, that is the amount of weekly benefits the claimant would receive for any week in which she met all eligibility requirements and did not have any wages. The claimant has not received any benefits in connection with the claim.

For the week ending November 15, 2014 the claimant reported \$240 in wages and three employer contacts. For that week, Central Iowa Hospital Corporation had 16.25 hours for the claimant and paid her \$229.78. For the week ending November 22, 2014 the claimant reported \$132 in wages and two employer contacts. For that week, Central Iowa Hospital Corporation has only 6.25 hours for the claimant and paid the claimant \$88.38. For the week that ended November 29, 2014 the claimant reported zero wages and two employer contacts. For that week, Central Iowa Hospital Corporation had no hours for the claimant.

Workforce Development records provide additional insight into the claimant's employment and wage history with Central Iowa Hospital Corporation. That employer reported wages for the claimant that included wages for the fourth quarter of 2013 and the first, second, and third quarters of 2014. The claimant's wages from the employment during the fourth quarter of 2013 were \$10,261; which amounts to an average weekly wage of \$789.31 for full-time work. The claimant's wages from the employment during the first quarter of 2014 were \$10,663; which amounts to an average weekly wage of \$820.23 for full-time work. The claimant's wages from the employment for the second quarter of 2014 were \$8,899; which amounts to an average weekly wage of \$684.00 for full-time work. The claimant's wages from the employment for the third quarter of 2014 were \$9,549; which amounts to an average weekly wage of \$734.54 for full-time work.

During the three-week period of November 9, 2014 through November 29, 2014 the claimant did not turn down any work that Central Iowa Hospital Corporation had for her.

REASONING AND CONCLUSIONS OF LAW:

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", 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".

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 96.7(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.

[Emphasis added.]

The claimant's workplace shoulder injury is an important factor in this matter. At the time of the injury the claimant was a full-time employee of Central Iowa Hospital Corporation. The claimant sought a reasonable accommodation from the employer and that reasonable accommodation was transition to a similar position that did not included restraining or lifting patients. The employer had an obligation to provide such reasonable accommodation so that the claimant could continue in her employment. . See Sierra v. Employment Appeal Board, 508 N.W. 2d 719 (Iowa 1993). The weight of the evidence indicates that the employer initially provided the reasonable accommodation so that the claimant could continue full-time employment. The employer subsequently cut back on the accommodation, but refused to provide full-time work hours. The claimant tried to make up for the loss of work hours from her primary employment by obtaining a second job. The claimant subsequently lost the second job and was compelled to file a claim for unemployment insurance benefits. The claimant should not be penalized for Central Iowa Hospital Corporation's decision to cut her work hours at a time when she was recovering from an injury in connection with that employment or after she had recovered from that injury. Nor should the employer receive a windfall relief of liability based on its decision to cut the claimant's work hours. The weight of the evidence indicates that the claimant was able to work, available for work, and partially unemployed from the employment with Central Iowa Hospital Corporation during the three-week period of November 9, 2014 through November 29, 2014. The claimant is eligible for benefits for those weeks, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The December 3, 2014, reference 04, decision is reversed. During the three-week period of November 9, 2014 through November 29, 2014 the claimant was able to work, available for work, but partially unemployed from Central Iowa Hospital Corporation. The claimant is eligible for benefits for those weeks, provided she is otherwise eligible. The employer's account may be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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