

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SANDRA SCHULMEISTER
Claimant

APPEAL 20A-UI-08590-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GEARHART CHIROPRACTIC PC
Employer

OC: 03/29/20
Claimant: Appellant (1/R)

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

Sandra Schulmeister (claimant) appealed a representative's July 7, 2020, decision (reference 01) that denied benefits based on her employment with Gearhart Chiropractic (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 1, 2020. The claimant participated personally. The employer participated by Timothy Gearhart, Owner, and Carrie Gearhart, Office Manager. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 12, 2012, as a part-time chiropractic assistant. She averaged \$225.00 gross wages per week. She also worked as a self-employed hairdresser at an assisted living facility. She did not have work at the facility, but continued to work without interruption for the employer.

The claimant filed for unemployment insurance benefits with an effective date of March 29, 2020. Her weekly benefit amount (WBA) was determined to be \$184.00. Her WBA plus \$15.00 was \$199.00. The claimant received benefits of \$184.00 per week from March 29, 2020, to the week ending June 27, 2020. This is a total of \$2,392.00 in state unemployment insurance benefits after the separation from employment. She also received \$7,800.00 in Federal Pandemic Unemployment Compensation for the thirteen-week period ending June 27, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.19(38) 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 claimant has continued to work without interruption. She cannot be considered totally or temporarily unemployed. The question becomes whether she was partially unemployed. For a worker to be partially unemployed she must be earning less than her WBA plus fifteen dollars. The claimant was at all times earning \$225.00. This was higher than her WBA plus fifteen dollars, \$199.00. The claimant is not eligible to receive unemployment insurance benefits. Benefits are denied effective March 29, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

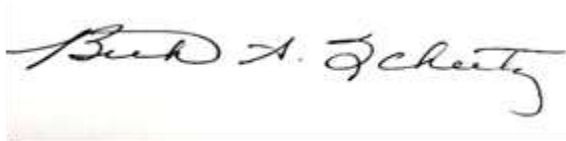
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The July 7, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not considered unemployed and is not eligible to receive unemployment insurance benefits as of March 29, 2020

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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. 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>.



Beth A. Scheetz
Administrative Law Judge
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September 3, 2020
Decision Dated and Mailed

bas/sam