

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**CHRISTINE A INGRAM  
620 E LOMBARD ST  
DAVENPORT IA 52803-3046**

**GENESIS HEALTH SYSTEM  
1227 E RUSHOLME ST  
DAVENPORT IA 52803**

**Appeal Number: 06A-UI-05571-H2T  
OC: 05-07-06 R: 04  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 22, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 14, 2006. The claimant did participate. The employer did participate through Linda Sanders, Human Resources Assistant.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a health information management clerk full time beginning August 24, 1992 through May 5, 2006, when she was discharged. The claimant had only worked in the records department for approximately one year. Prior to that, she had worked in the food service department.

On May 5, 2006, the claimant violated the employer's HIPAA policy when she accessed the medical records of a coworker, B.B. All of the access to medical records is tracked by computer and the employer was able to identify that it was, in fact, the claimant who accessed B.B.'s medical records. At hearing, the claimant admitted that she had accessed B.B.'s medical records without permission from B.B. The claimant accessed the records because she was concerned about B.B.'s well being. No matter how well intentioned her motives were, the claimant had no business violating B.B.'s right to confidentiality of her own medical records. The claimant had been trained on how to comply with the employer's HIPAA privacy rules and had signed an acknowledgement of receipt of the regulations in 1998. The claimant violated the employer's HIPAA regulations by accessing medical records of coworker B.B. when she was not entitled to.

After being notified of the potential violation, the employer ran an audit of the claimant's access code and found that the claimant's access code was used to view medical records of two other coworkers. S.C.'s medical records were viewed in April 2006 and M.H.'s medical records were viewed in November 2005. The claimant had no business purpose or reason to access those medical records.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith

errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant knew or should have known that she was not to access private medical records of coworkers in violation of the employer's HIPAA regulations. By violating the regulations the claimant could have subjected the employer to fines for such violations. Having a good motive does not abrogate the claimant's responsibility to follow the employer's clear rules and regulations. The fact that other employees also violated the rules also does not act to give permission to the claimant to engage in prohibited conduct. The claimant's actions subjected the employer to possible fines and violates a coworker's right to expect her medical records to be private. The claimant's actions constitute misconduct sufficient to disqualify her from receiving unemployment insurance benefits. Benefits are denied.

DECISION:

The May 22, 2006, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

tkh/kkf