

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEBRA K MCGEOUGH
Claimant

APPEAL 22A-UI-06660-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/26/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant, Debra McGeough, filed a timely appeal from the March 15, 2022, (reference 02), unemployment insurance decision that warned claimant to make at least two work-search contacts per week but did not deny benefits for the week ending March 12, 2022. After due notice was issued, a telephone conference hearing was scheduled to be held on April 29, 2022. Claimant participated. No exhibits were received into the record.

ISSUE:

Did the claimant make an adequate work search for the week ending March 12, 2022, and was the warning appropriate?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the week ending March 12, 2022. The administrative KCCO shows the claimant earned wages for the week ending March 12, 2022 and every subsequent week she performed weekly claims.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was excused from making work searches for the week ending March 12, 2022 and each subsequent week she made weekly claims due to being partially unemployed for those weeks.

Iowa Code section 96.4(3)a and b provide:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. a. 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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

b. Notwithstanding any provision of this chapter to the contrary, the department may establish by rule a process to waive or alter the work search requirements of this subsection for a claim for benefits if an individual has a reasonable expectation that the individual will be returning to employment and is attached to a regular job or industry or a member in good standing of a union therein eligible for referral for employment. To be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff. If work is not available at the conclusion of the layoff period due to short-term circumstances beyond the employer's control, the employer may request an extension of the waiver or alteration for up to two weeks from the department. **For purposes of this paragraph, "short-term temporary layoff" means a layoff period of sixteen weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.**

Iowa Code section 96.1A(37) provides:

Totally unemployed", "partially unemployed", and "temporarily unemployed.

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.

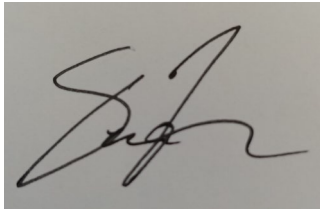
(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

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.** [Emphasis added]

The claimant was excused from performing work searches beginning with the week ending March 12, 2022. This is because she was partially unemployed as defined by Iowa Code section 96.1A(37)(1). She was partially unemployed because she was earning less than her weekly benefit amount of \$343.00 plus \$15.00 or \$358.00 for each week from the week ending March 12, 2022 to the final week she made weekly claims. See Iowa Code section 96.1A(37). The work search warning and any other enforcement actions regarding work search requirements after March 5, 2021 are inappropriate and must cease.

DECISION:

The March 15, 2022, (reference 02) unemployment insurance decision is reversed. The claimant was excused from performing work searches effective March 12, 2022 because she was partially unemployed as defined by Iowa Code section 96.1A(37) that week and each subsequent week. The work search warning issued to the claimant shall be removed from her file. All enforcement actions taken against the claimant for work search activities occurring for the week of March 12, 2022 or any subsequent week before her recall shall cease.



Sean M. Nelson
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May 12, 2022
Decision Dated and Mailed

smn/scn