

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY J HEIDECKER
Claimant

APPEAL NO. 07A-UI-01616-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOPE HAVEN INC
Employer

**OC: 01/14/07 R: 02
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Mary Heidecker filed an appeal from a representative's decision dated February 7, 2007, reference 01, which denied benefits based on her separation from Hope Haven, Inc. After due notice was issued, a hearing was held by telephone on March 1, 2007. Ms. Heidecker participated personally. The employer participated by LeeAnn Blau, Residential Manager.

ISSUE:

At issue in this matter is whether Ms. Heidecker was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Heidecker was employed by Hope Haven, Inc. from May 22, 2006 until January 11, 2007. The employer provides services to mentally disabled adults and children, either in their homes or in a group residential setting. Ms. Heidecker was initially employed as an on-call worker and became a full-time residential instructor on September 3, 2006. She was discharged on January 11, 2007 due to poor work performance and conduct.

In July of 2006, Ms. Heidecker was counseled after a family member complained about her smoking in the client's presence. She was again counseled in October after her supervisor observed her in her vehicle smoking while three clients were with her. On October 31, the employer met with Ms. Heidecker and suspended her ability to dispense medications because of three medication errors. On October 13, she had told her supervisor she did not know a client was to be taking Depokote. The supervisor assumed, therefore, that she had not been dispensing the medication. The client's medications were noted in his chart and his medications were all kept in the same location. On October 18, she had neglected to give two medications and indicated she was confused as to what medication to give. Also on October 18, she had failed to conduct a count of the "Schedule II" narcotics at the start and end of her shift. Ms. Heidecker had completed medication management training in approximately June of 2006.

The employer became aware on January 8 that Ms. Heidecker had dispensed twice the amount of insulin to a client than was required on January 6. The amount of insulin to be given is determined by checking the food intake (as logged) and the blood sugar level. Ms. Heidecker gave 16 units when only 7 were required. On January 10, the employer received a complaint from a client's mother concerning Ms. Heidecker. The gist of the complaint was that she was frequently rescheduling her visits. The mother also reported that her son's therapist had observed Ms. Heidecker smoking in her son's presence. Also in January, the employer discovered that she had violated the rules regarding confidentiality. She wrote in the log book that she had placed a call to a client's boyfriend to ask him to stop calling the client. She did not have written authorization to talk to the boyfriend.

Ms. Heidecker had attendance issues during the course of her employment. All of her absences were for medical reasons and all were properly reported. She was told that she had to work at least 38 hours per week but had not been warned that her attendance was jeopardizing her continued employment. Because of performance issues, Ms. Heidecker was discharged on January 11, 2007.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The administrative law judge concludes that Ms. Heidecker's medication errors and her smoking in the presence of clients constituted misconduct sufficient to warrant a disqualification from benefits.

Ms. Heidecker had three medication errors in October. She had received training in medication management. Her contention that she had not been properly trained is not well-taken. The medications were in a central location and the doctor's orders prescribing the medications were available. There was no reason not to know what medications were to be dispensed and at what intervals. The fact that her ability to dispense medications was suspended in October should have been sufficient to put Ms. Heidecker on notice that she needed to use due care in making sure that medications were given as prescribed. Her failure to use due care resulted in a client receiving twice the required dosage of insulin on January 6. The error could have resulted in substantial harm to the client.

Ms. Heidecker was put on notice in July that smoking in the presence of clients was prohibited. In spite of the verbal warning, she was observed smoking in the presence of three clients in her vehicle in October. The employer re-stated the policy to her at that time. However, Ms. Heidecker continued to violate the policy as observed by a client's therapist. The administrative law judge can think of no reason the therapist would fabricate an allegation as specific as smoking. The therapist would have had to observe Ms. Heidecker smoking in order to even know that she was a smoker. Her conduct in smoking in the presence of clients, especially in the confined space of a vehicle, had the potential of compromising their health.

For the reasons cited herein, the administrative law judge concludes that the employer has satisfied its burden of proving substantial misconduct. Ms. Heidecker engaged in a course of conduct that was contrary to the best interests of the employer in that it endangered the health and well-being whose care was entrusted to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated February 7, 2007, reference 01, is hereby affirmed. Ms. Heidecker was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css