

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JULIE A BUMGARNER-PECK
Claimant

APPEAL 20A-UI-06778-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BROADLAWNS MEDICAL CENTER
Employer

**OC: 03/22/20
Claimant: Appellant (1)**

Iowa Admin. Code r. 24.23(26) – Same Hours and Wages
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.3-7 – Overpayment
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated June 17, 2020 (reference 02) that determined she was still employed at the same hours and wages and denied benefits. After due notice was issued, a hearing was held by telephone conference call on July 29, 2020. The claimant participated in the hearing. Julie Kilgore, Vice-President of Human Resources, participated in the hearing on behalf of the employer. Employer's Exhibits One through Four were admitted into evidence.

ISSUES:

The issues are whether the claimant is eligible for total or partial unemployment benefits, whether the claimant is 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 and whether the claimant is overpaid benefits.

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 as a PRN point of service representative for Broadlawns Medical Center on December 18, 2017. PRN employees work as needed and are not guaranteed a certain number of hours (Employer's Exhibit Two). A PRN employee must be available for 28 hours of work per calendar quarter. The claimant has met that requirement.

In July 2019 the claimant worked 10.75 hours; in August 2019 she worked zero hours; in September 2019 she worked 10.75 hours; in October, November and December 2019, she worked zero hours each month; in January 2020 she worked 14.5 hours; in February 2020 she worked 29.75 hours; in March 2020 she worked 69.00 hours; in April 2020 she worked 14.00 hours; in May and June 2020 she worked zero hours each month; and to date in July 2020 she has worked 55.75 hours (Employer's Exhibit Four).

The claimant filed for unemployment insurance benefits with an effective date of March 22, 2020. Her weekly benefit amount was determined to be \$149.00. The claimant has received benefits in the amount of \$1,639.00 for the 11 weeks ending June 13, 2020. She also received \$6,600.00 in Federal Pandemic Unemployment Compensation for the 11 weeks ending June 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds the claimant is still employed at the same hours and wages as contemplated in her original contract of hire and may be overpaid benefits.

Iowa Admin. Code r. 871-24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant is a PRN employee and as such works on an “as-needed” basis. She is not guaranteed a certain number of hours and is not considered totally, partially or temporarily unemployed. There has been no separation from her PRN employment and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire. The claimant is disqualified from receiving benefits based on her PRN employment.

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 does not have to be able and available for work to be eligible for the federal unemployment programs. The claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below.

The next issue is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from

any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The claimant received unemployment insurance benefits. This was during the period of time the claimant has been determined to be ineligible to receive benefits. This decision denies benefits. If this decision becomes final or if the claimant is not eligible for PUA, she may have an overpayment of benefits.

The final issue is whether the claimant is eligible for or overpaid Federal Pandemic Unemployment Compensation. The administrative law judge finds that she may be overpaid those benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.-- In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

The claimant has been disqualified from receiving regular unemployment insurance benefits. She has also received Federal Pandemic Unemployment Compensation. If this decision becomes final or if she is not eligible for PUA, she may have an overpayment of benefits.

DECISION:

The June 17, 2020. (reference 02) unemployment insurance decision is affirmed. The claimant is still employed at the same hours and wages as contemplated in her original contract of hire. Regular unemployment insurance benefits funded by the state of Iowa are denied.

The claimant has received unemployment insurance benefits and Federal Pandemic Unemployment Compensation. This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



Julie Elder
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

August 6, 2020
Decision Dated and Mailed

je/sam

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>.