

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADRIAN MILLER
Claimant

APPEAL NO. 09A-UI-08356-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

COVENANT MEDICAL CENTER
Employer

**Original Claim: 04-26-09
Claimant: Appellant (1)**

Section 96.5-2-a –Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 2, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 23, 2009. The claimant participated in the hearing. Missy Santman, Human Resources Director, participated in the hearing on behalf of the employer. Employer's Exhibits One through Seven were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time registered nurse for Covenant Medical Center from October 6, 2006 through April 17, 2009. The employer discharged him due to violation of company policy by his failure to document patients' medical charts accurately. He received a verbal warning January 15, 2008, for poor documentation. The employer also addressed the claimant's trouble with documentation in his evaluation dated June 18, 2008. He had to add multiple addendums to the medical charts to meet acceptable standards. A written warning was issued to him October 8, 2008, again for substandard documentation. The employer reviewed the claimant's deficient charts and discussed its expectations and the claimant signed the warning. The claimant received a final written warning March 6, 2009. His documentation was repeatedly below the 90 percent acceptable standard. An audit performed on charts in the emergency department in February 2009 found 259 documentation errors; the claimant was responsible for 70 errors, or 27 percent of the total department errors. The employer provided the claimant with remedial training on documentation and advised him that his job was in serious jeopardy. The claimant treated a suicidal patient in the emergency department April 13, 2009. He failed to document the patient's treatment in the emergency room even though he knew what was required, since he had attended the suicide prevention and restraint training. The need to document is important so the caregiver can watch and observe the patient for safety and reactions. Soft restraints and, subsequently, chemical restraints were used on the patient, but there was no record of it in her medical chart. The claimant failed to complete the

required restraint packet and did not document the physician order in the medical file. Inadequate documentation can result in fines for the employer and a loss of certification. When questioned about it April 14, 2009, the claimant admitted documentation is important "to a certain extent." He agreed that a failure to document could have serious consequences but reported he was taking care of eight patients that night and did not have time to document the charts. The claimant laughed and stated that he could complete an addendum on the following day. The employer sent the claimant home and the claimant said he did not think he had a problem. The employer contacted him April 17, 2009, and notified him his employment was terminated.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for 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.

The employer discharged the claimant on April 17, 2009 for policy violations after repeated warnings. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The final incident was an egregious error that violated the employer's policy as well as the Joint Committee for Accreditations of

Healthcare Organization (JCAHO) and the Centers for Medicaid and Medicare Services (CMS) standards. The claimant's conduct shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The June 2, 2009, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw