

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CARMEN A PHILLIPS**

Claimant

**APPEAL 21A-UI-08899-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NORTHEAST IOWA COMMUNITY COLLEGE**

Employer

**OC: 03/29/20**

**Claimant: Appellant (2)**

Iowa Code § 96.4(5) – Eligibility Between Academic Years or Terms

**STATEMENT OF THE CASE:**

On March 30, 2021, Carmen Phillips (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated March 26, 2021 (reference 03) that denied benefits as of May 10, 2020 based on a finding claimant was not eligible for benefits between academic years or terms.

A telephone hearing was held on June 15, 2021. The parties were properly notified of the hearing. The claimant participated personally. Northeast Iowa Community College (employer/respondent) participated by Executive Director of HR Connie Kuennen.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE:**

Is the claimant eligible for benefits between academic years or terms?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer on October 21, 2015. Claimant was employed as an adjunct faculty member in employer's radiology program. In this position, claimant taught students in a clinical setting one or two days per month, depending on need and availability. The program was essentially year-round, as there were typical spring and fall semesters as well as a summer term. There was no work available for claimant with employer from March 23, 2020 through May 8, 2020. Claimant would have normally been performing work for employer during this period. However, because of the pandemic, hospitals and clinics were not allowing students into their facilities for clinical learning. Claimant filed weekly claims for benefits from the benefit week ending April 4, 2020 through the benefit week ending May 23, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the decision dated March 26, 2021 (reference 03) that denied benefits as of May 10, 2020 based on a finding claimant was not eligible for benefits between academic years or terms is REVERSED. Claimant's unemployment did not occur between academic years or terms. She is therefore eligible for benefits during the weeks filed, provided she is not otherwise disqualified or ineligible.

Iowa Code section 96.4(5)a provides:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.1A, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

b. Benefits based on service in any other capacity for an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, if the individual performs the services in the first of such academic years or terms and has reasonable assurance that the individual will perform services for the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

c. With respect to services for an educational institution in any capacity under paragraph "a" or "b", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. For purposes of this subsection, "educational service agency" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

Iowa Admin. Code r. 871-24.52(6) provides:

Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

Employer is a nonprofit organization or government entity. However, unemployment did not occur between academic years or terms. There was no work available for claimant with employer from March 23, 2020 through May 8, 2020. Claimant would have normally been performing work for employer during this period. However, because of the pandemic, hospitals and clinics were not allowing students into their facilities for clinical learning. Claimant filed weekly claims for benefits from the benefit week ending April 4, 2020 through the benefit week ending May 23, 2020. She is therefore eligible for benefits during the weeks filed, provided she is not otherwise disqualified or ineligible.

**DECISION:**

The decision dated March 26, 2021 (reference 03) that denied benefits as of May 10, 2020 based on a finding claimant was not eligible for benefits between academic years or terms is REVERSED. Claimant's unemployment did not occur between academic years or terms. She is therefore eligible for benefits during the weeks filed, provided she is not otherwise disqualified or ineligible.



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Andrew B. Duffelmeyer  
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June 29, 2021  
Decision Dated and Mailed

abd/ol