

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRENDA S SAVILLE
Claimant

APPEAL NO. 20A-UI-05374-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINN MAR COMMUNITY SCHOOL DISTRICT
Employer

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits
Public Law 116-136, Section 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Brenda Saville filed a timely appeal from the May 21, 2020, reference 01, decision that denied benefits effective March 29, 2020, based on the deputy's conclusion that Ms. Saville was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on July 8, 2020. Ms. Saville participated. Heather Jordan, Human Resources Generalist, represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work within the meaning of the law during the period of March 29, 2020 through May 16, 2020.

Whether the claimant was partially unemployed within the meaning of the law during the period of March 29, 2020 through May 16, 2020.

Whether the claimant was overpaid regular benefits.

Whether the claimant was overpaid Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Brenda Saville established an original claim for benefits that was effective March 29, 2020. Iowa Workforce Development set her weekly benefit amount at \$410.00. Ms. Saville had established her claim for benefits in response to being temporarily laid off from a part-time employment at Hobby Lobby. Ms. Saville made weekly claims for seven weeks between March 29, 2020 through May 16, 2020. Ms. Saville reported wages and received regular benefits as follows:

<u>Benefit Week End Date</u>	<u>Wages Reported</u>	<u>Benefits Paid</u>
04/04/20	334.00	178.00
04/11/20	223.00	289.00
04/18/20	223.00	289.00
04/25/20	250.00	262.00
05/02/20	250.00	262.00
05/09/20	250.00	262.00
05/16/20	590.00	0.00

The regular benefits totaled \$1,542.00. For each of the six weeks between March 29, 2020 and May 9, 2020, IWD also paid Ms. Saville \$600.00 in Federal Pandemic Unemployment Compensation (FPUC). The FPUC benefits totaled \$3,600.00. Ms. Saville discontinued her claim for benefits, following the week that ended May 16, 2020.

For the last 19 years, Ms. Saville has been employed by Linn Mar Community School District as a full-time secretary. Ms. Saville was employed full-time and working full-time for the District during each of the weeks between March 29, 2020 through May 16, 2020. Ms. Saville's wage is \$16.51 per hour. Ms. Saville's gross weekly wages from the Linn Mar employment are \$594.36. Linn Mar paid Ms. Saville her regular weekly wages for each of the weeks between March 29, 2020 and May 16, 2020. Ms. Saville failed to accurately report her Linn Mar wages during the period of March 29, 2020 through May 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(3) provides:

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

3. 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 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, 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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area

in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Iowa Code section 96.19(38) provides:

"Total and partial unemployment".

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.

Ms. Saville was not unemployed within the meaning of the law during the period of March 29, 2020 through May 16, 2020, regardless of the status of the part-time Hobby Lobby employment. During the period of March 29, 2020 through May 16, 2020, Ms. Saville continued to work full-time and received full-time wages from Linn Mar Community School District. The full-time wages exceeded Ms. Saville's \$410.00 weekly benefit amount. Ms. Saville did not meet the unemployment insurance "availability" requirement due to the continued full-time employment with Linn Mar. Ms. Saville was not temporarily or partially unemployed within the meaning of the law. Ms. Saville is not eligible for benefits for the period of March 29, 2020 through May 16, 2020.

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

This decision affirms the denial of benefits for the period beginning March 29, 2020 through the benefit week that ended May 16, 2020. Accordingly, the \$1,542.00 in regular benefits that Ms. Saville received for that period is an overpayment of benefits that she must repay.

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...

Because Ms. Saville is ineligible for regular unemployment insurance (UI) benefits for the period that includes March 29, 2020 through May 9, 2020, she is also ineligible for Federal Pandemic Unemployment Compensation (FPUC) for that period. The \$3,600.00 in FPUC benefits Ms. Saville received for that period is an overpayment of benefits that she must repay.

DECISION:

The May 21, 2020, reference 01, decision is affirmed. The claimant was not unemployed within the meaning of the law, was not "available" within the meaning of the law, and was not partially unemployed within the meaning of the law during the period of March 29, 2020 through May 16, 2020 and is not eligible for benefits for that period. The claimant was overpaid \$1,542.00 in regular benefits for the period of March 29, 2020 through May 9, 2020. The claimant was overpaid \$3,600.00 in FPUC benefits for the period of March 29, 2020 through May 9, 2020. The claimant must repay the overpaid regular benefits and FPUC benefits.



James E. Timberland
Administrative Law Judge

August 6, 2020
Decision Dated and Mailed

jet/scn