

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MORGAN LIPPER**  
Claimant

**HOPE HAVEN AREA DEVELOPMENT  
CENTER**  
Employer

**APPEAL 20A-UI-03842-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Respondent (1R)**

Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.19(38)B – Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Part time, same hours and wages

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the April 28, 2020 (reference 01) unemployment insurance decision that found claimant was eligible for unemployment benefits and that the employer will not be relieved of charges. The parties were properly notified of the hearing. A telephone hearing was held on May 27, 2020. The claimant, Morgan Lipper, did not participate. The employer, Hope Haven Area Development Center, participated through witness Cheryl Wright. Employer's Exhibit 1 was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Is the claimant eligible for total or partial unemployment benefits?  
Is claimant employed for the same hours and wages?  
Is the claimant able to and available for work?  
Is the employer's account subject to charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for this employer on January 3, 2016. Claimant was employed as a full-time direct support professional. She is still employed to date. The claimant typically helps clients by going into their homes and performing tasks for them such as cleaning, shopping, or taking them to events. Due to COVID 19, claimant's workload decreased because the clients did not want her coming into their homes. She normally works 36 hours per week. She has been working a reduced schedule due to business reductions from March 22, 2020 to April 25, 2020. Claimant's administrative records establish that her base period included wages for full-time employment during each quarter. The administrative records establish that claimant is reporting wages for each week she has filed weekly-continued claims for benefits.

The employer believes that the lack of work for the claimant was due to the COVID 19 pandemic. The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", subparagraph (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 Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work, or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Code § 96.7(2)a(2)a provides:

Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the *individual is receiving the same employment from the employer that the individual received during the individual's base period*, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(emphasis added).

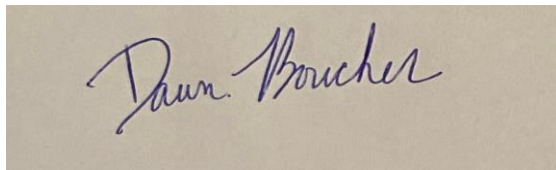
Claimant's hours have been reduced from full-time to part-time due to the business needs of the employer. Claimant has been partially unemployed for all her weekly claims filed to date. As such, the claimant is considered partially unemployed. Benefits are allowed, provided the claimant is otherwise eligible. The claimant must report gross earnings during each week claimed. Because benefits are allowed, the issues of overpayment of regular unemployment insurance benefits and Federal Pandemic Unemployment Compensation benefits are moot.

**DECISION:**

The April 28, 2020 (reference 01) decision is affirmed pending the issue on remand. Claimant is partially unemployed. Benefits are allowed effective March 15, 2020, provided the claimant remains otherwise eligible.

**REMAND:**

The chargeability issue delineated in the findings of fact is remanded to the Tax Bureau of Iowa Workforce Development for a determination of the allocation of charges.



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Dawn Boucher  
Administrative Law Judge

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May 29, 2020  
Decision Dated and Mailed

db/mh