

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROLINE R MOCKLER

Claimant

APPEAL 21A-UI-03550-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUBUQUE-HOLY FAMILY CATHOLIC

Employer

OC: 03/29/20

Claimant: Respondent (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.4(5) – Reasonable Assurance

STATEMENT OF THE CASE:

On January 15, 2021, the employer, Dubuque Holy Family Catholic, filed an appeal from the January 15, 2021 (reference 01) unemployment insurance decision that denied benefits effective March 29, 2020. The parties were properly notified of the hearing. A telephonic hearing was held on March 26, 2021. The claimant, Caroline R. Mockler, participated. The employer was represented by Paul Jahnke, hearing representative. Mary Sulentic testified for the employer. The administrative law judge took official notice of the administrative records, including wage history. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was the claimant totally, partially, or temporarily unemployed effective March 29, 2020?
Did the claimant have reasonable assurance of continued employment in the next school year?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed full time with the employer since 2004. Most recently, claimant has worked part-time for the employer as a classroom associate, earning \$10.98 per hour, and worked approximately 27 hours per week.

On March 16, 2020, Governor Reynolds issued a proclamation closing K-12 school statewide due to the emerging COVID-19 pandemic. Claimant was unemployed due to the pandemic-related shutdown from March 29, 2020, through the week ending June 6, 2020, at which time her work for the school year would have ended otherwise.

It was not the employer's voluntary choice to close its school in March 2020, nor was it claimant's voluntary choice to take a leave of absence from work. Due to the pandemic, there was simply no work available.

On May 20, 2020 the employer issued a letter from its president to claimant stating it planned to offer her employment for the coming school year. The employer notified claimant that it expected to recall her for the coming 2020-21 school year in a similar capacity as she had been employed for the prior year. She returned to work around August 17, 2020.

Employer states it does not protest the receipt of benefits, but does not believe it should be charged. Employer stated based upon representation from IWD, that it believed its account would not be charged for claims that were due to COVID-19. Employer's testimony is consistent with information for employers on the IWD website, which states:

ATTENTION EMPLOYERS:

At this time, IWD is not charging employers for claims made by their employees due to COVID-19 related unemployment. Presently, there are also no plans to enact a trigger to begin charging employers in the event that the trust goes below a certain threshold. IWD will notify employers of any changes to this decision should the need arise.

See: <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>

Claimant is listed as Group Code 8, which currently indicates that she is unemployed because of the pandemic. Under this group code, claimant is still attached to the employer but is not able to work due to the pandemic, and the employer is relieved of any charges.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying decision is modified in favor of the claimant/respondent. Claimant is eligible for benefits from March 29, 2020, through June 6, 2020, as she was totally unemployed due to the pandemic. Claimant is not eligible for benefits effective June 7, 2020.

Iowa Code § 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.

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", 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".

Here, claimant was totally unemployed effective March 29, 2020, through June 6, 2020. This total unemployment was a result of Governor Reynolds closing Iowa's K-12 schools due to the

COVID-19 pandemic. Claimant was otherwise able to and available for work. Benefits are allowed from March 29, 2020, through June 6, 2020, provided she is otherwise eligible. As claimant is classified as Group Code 8, the employer shall not be charged for these benefits.

Iowa Code section 96.4(5)a provides:

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

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, 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.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.

Iowa Admin. Code r. 871-24.51(6) provides:

School definitions.

(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

Claimant had reasonable assurance of continued employment for the 2020-21 school year on or about May 20, 2020, prior to the end of the school year. As a result, claimant is not considered unemployed and is not eligible for benefits effective June 7, 2020, once her work ended for the school year and she was between academic years.

DECISION:

The January 15, 2021 (reference 01) unemployment insurance decision is modified in favor of claimant/respondent.

Claimant was totally unemployed and was able to and available for work; benefits are allowed from March 29, 2020, through June 6, 2020, provided she is otherwise eligible. The employer shall not be charged for any benefits paid between March 29, 2020, through June 6, 2020.

Claimant had reasonable assurance of returning to work the following academic year or term; benefits are denied effective June 7, 2020.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 29, 2021
Decision Dated and Mailed

jlb/scn

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits effective June 7, 2020. 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.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). You will need to apply for PUA to determine your eligibility under the program. More information about how to apply for PUA is available online at: www.iowaworkforcedevelopment.gov/pua-information

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>