

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VICTOR A LAUGHLIN
Claimant

CEDAR FALLS COMM SCH DIST
Employer

APPEAL 20A-UI-04569-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (4R)

Iowa Code § 96.4(5) – Eligibility – Reasonable Assurance
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 18, 2020 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 15, 2020, at 11:00 a.m. Claimant participated. Employer participated through Lori Bruns, Human Resources Specialist. Claimant's Exhibits A & B were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is eligible for benefits between academic year or terms.
Whether claimant was overpaid benefits.
Whether claimant is eligible for Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time head diving coach from August 12, 2019 until November 8, 2019. Claimant was also employed as a substitute teacher and last accepted an assignment from employer in that capacity on February 28, 2019. Claimant remained on the substitute teaching list for the 2019/2020 school year. Employer was closed for spring break March 16-20, 2020. Employer began its summer break on June 1, 2020. Claimant is currently on the substitute teaching list. Claimant had reasonable assurance of continued work with employer during spring break and for the 2020/2021 school year. Claimant has no other regular non-educational institute employment wage credits in the base period.

The administrative record reflects that claimant filed for and received regular unemployment insurance (UI) benefits in the gross amount of \$195.00 for the benefit week ending March 21, 2020. Claimant filed for but has not received UI since June 1, 2020. Claimant did not receive Federal Pandemic Unemployment Compensation (FPUC) for the benefit week ending March 21, 2020 or since June 1, 2020.

There has been no initial investigation and decision regarding claimant's eligibility for benefits as an on-call worker. The issues of whether claimant is eligible for benefits as an on-call worker and whether claimant has been overpaid benefits between March 22, 2020 and May 31, 2020 should be remanded to the Benefits Bureau of IWD for an initial investigation and decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant had reasonable assurance of returning to work for employer following spring break and has reasonable assurance of returning to work for employer for the 2020/2021 school year. Benefits are denied for the week ending March 21, 2020 and any weeks after June 1, 2020.

Iowa Code section 96.4(5)a, c provide:

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.

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.

Claimant had reasonable assurance of continued work with employer after spring and summer breaks because he was on the substitute teaching list. Accordingly, claimant is not eligible for benefits during spring and summer breaks. Benefits are denied for the week ending March 21, 2020 and any weeks after June 1, 2020.

The next issue to be determined is whether claimant has been overpaid benefits. For the reasons that follow, the administrative law judge concludes claimant was overpaid benefits, which must be repaid.

Iowa Code section 96.3.(7) states:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Benefits were paid to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid UI in the gross amount of \$195.00 for the benefit week ending March 21, 2020. Claimant is required to repay those benefits. Claimant did not receive FPUC for the period in question; therefore, the issue of overpayment of FPUC is moot.

The issues of whether claimant is eligible for benefits as an on-call worker and whether claimant has been overpaid benefits between March 22, 2020 and May 31, 2020 should be remanded to the Benefits Bureau of IWD for an initial investigation and decision.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The May 18, 2020 (reference 02) unemployment insurance decision is modified in favor of appellant. Claimant had reasonable assurance of returning to work following spring and summer breaks. Benefits are denied for the week ending March 21, 2020 and for any weeks after June 1, 2020. The issue of overpayment for the period in question is moot.

REMAND:

The issues of whether claimant is eligible for benefits as an on-call worker and whether claimant has been overpaid benefits between March 22, 2020 and May 31, 2020 are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Adrienne C. Williamson
Administrative Law Judge
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Fax (515)478-3528

July 2, 2020

Decision Dated and Mailed

acw/sam