

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

REBECCA L ABELS
Claimant

APPEAL NO. 09A-UI-14695-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

**Original Claim: 08-23-09
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 10, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 29, 2009. The claimant did participate. The employer did participate through (representative) Kristin Nicholson, Human Resources Coordinator, and Betsey Tibbitts, Corporate Privacy Officer.

ISSUE:

Was the claimant discharged for work-related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a registered nurse, full-time, beginning February 19, 2007, through August 21, 2009, when she was discharged.

A coworker of the claimant's was admitted to the hospital where the claimant worked and was being treated as a patient in an area where the claimant did not work. On three separate occasions over the weekend of August 15 through August 17, the claimant accessed the patient/coworker's medical records. She had no business reason or "need to know" reason under the employer's policy to access the medical records. The claimant shared the information she learned from accessing the patient/coworkers records with other employees who also had no "need to know" the information the claimant was sharing. The claimant knew she had to comply with the Health Insurance Portability and Accountability Act (HIPAA) as a registered nurse in the facility. The claimant did not have written permission from the patient/coworker to access the information, nor did she have any business purpose or "need to know" the information. The employer's policy, which the claimant had received and been trained on, provides a zero tolerance for HIPAA violations.

In her performance evaluation of April 2009, the claimant was cautioned to avoid any HIPAA violations. The claimant's failure to follow the HIPAA could lead to penalties being imposed upon her employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The claimant simply had no need to know any of the information she accessed on the patient/coworker. She was not caring for the patient/coworker and had no "need to know" the information she was seeking, let alone share it with other coworkers. The claimant's good motives or caring attitude do not allow her to violate well established, known work rules that violate a coworker's privacy. As a nurse, she knew she had to comply with the HIPAA policy and simply chose not to do so. Her actions constitute disqualifying misconduct. Benefits are denied.

DECISION:

The September 10, 2009, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw