

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARGARET M WHEELER

Claimant

**ANAMOSA COMMUNITY SCHOOL
DISTRICT**

Employer

APPEAL 21A-UI-06449-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20

Claimant: Appellant (1)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.19(38) – Total, partial unemployment

STATEMENT OF THE CASE:

On March 1, 2021, Margaret Wheeler (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated February 17, 2021 (reference 01) that denied benefits as of March 15, 2020 based on a finding claimant was still employed for the same hours and wages.

A telephone hearing was held on May 10, 2021. The parties were properly notified of the hearing. Claimant participated personally. Anamosa Community School District (employer/respondent) participated by Business Manager Linda Vonbehren.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge? Is the claimant an on-call worker?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on October 21, 2008. Claimant is still employed by employer full-time as a para educator. Employer was closed beginning approximately March 15, 2020 and continuing through May 29, 2020 due to the pandemic. Claimant was paid her usual gross weekly wage of \$610.05 during this time.

Claimant's weekly benefit amount plus \$15.00 is \$241.00. Claimant filed a claim for benefits each week from the benefit week ending March 21, 2020 through the benefit week ending May 16, 2020. Claimant filed due to loss of income from self-employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated February 17, 2021 (reference 02) that denied benefits as of March 15, 2020 based on a finding claimant was still employed for the same hours and wages is **AFFIRMED**.

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 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.

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.

The administrative law judge understands claimant filed due to loss of income from self-employment. However, claimant was not eligible for benefits in any of the weeks filed because she was being paid as usual by employer during this time and she earned wages well over her weekly benefit amount plus \$15.00 per week.

DECISION:

The decision dated February 17, 2021 (reference 01) that denied benefits as of March 15, 2020 based on a finding claimant was still employed for the same hours and wages is **AFFIRMED**.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

May 18, 2021

Decision Dated and Mailed

abd/kmj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.