

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RUTH A EIVINS**  
Claimant

**APPEAL NO. 10A-UI-04151-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOONE COUNTY**  
Employer

**OC: 02/14/10**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct  
871 IAC 24.32(1) – Definition of Misconduct  
871 IAC 24.32(8) – Current Act

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated March 8, 2010, reference 01, that held she was discharged for misconduct on February 12, 2010, and benefits are denied. A telephone hearing was held on April 29, 2010. The claimant, and her Attorney, Harley Erbe, participated. Donna Wendt, Case Management Supervisor, John Grush, CCS Director, and Beth Shannon Brown, Team Leader, participated for the employer. Employer Exhibits 1 thru 14, and Claimant Exhibit A, was received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses, and having considered the evidence in the record, finds that: The claimant began full-time employment on July 1, 2006, and last worked as a full-time case manager on February 12, 2010. The claimant was terminated on February 12 for having incurred #6 non-billable units due to worker error during a period from August 1, 2009 to January 31, 2010 that included a deliberate withholding of information to the employer that a consumer was without Medicaid funding for a period of six months.

The employer issued corrective action plan warnings to the claimant (July '07; November '07; February '09) that included a written reprimand (December '07), and two-day suspension from employment (July '09). The claimant was warned about her failure to timely complete paperwork that led to the employer incurring non-billable units (financial losses) for customer services performed by her. The employer also used annual performance evaluations to emphasize to the claimant the importance of satisfying the requisites necessary to be completed in order for the employer to bill and receive reimbursement for Medicaid services performed.

The employer implemented a billable unit policy effective July 1, 2009 that set the performance standard. Even after defining the standard, the claimant incurred some non-billable units.

The claimant's work performance improved to the point the employer was considering taking the claimant off her most recent corrective action plan before she made a disclosure during a meeting on February 3, 2010. The claimant admitted that one of her customer (cases) had been without Medicaid funding since about August 1, 2009, and she failed to notify her supervisor about this issue. After an investigation (February 5th), the employer discovered the claimant had deliberately made a computer-record entry to conceal this shortcoming to her supervisor. Because of claimant's delay (of concealing the issue) in disclosing the issue, the employer was unable to remedy it by going back and switching the consumer from an MPED program to a medically-needy funded program. The claimant error resulted in #6 non-billable units to the employer, a financial loss of (\$8,186.74) to the employer (Boone County).

The employer discharged the claimant on February 12, 2010 for the most recent incident involving a violation of the non-billable policy in light of prior progressive discipline for similar conduct.

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

Iowa Code section 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.

871 IAC 24.32(8) provides:

(8) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

The administrative law judge concludes that the employer established misconduct in the discharge of the claimant on February 12, 2010.

The employer set the standard of behavior that it expected the claimant and all other case managers to perform with the establishment of the billable unit policy. Although the claimant offered case load and facing difficult issues as an excuse for satisfactory job performance, she had recently demonstrated her ability to comply to the point the employer was considering removing her from a corrective action plan. The employer advised the claimant that it was enforcing the non-billable unit policy by progressive discipline with written warnings, reprimand and suspension. The most recent of misconduct coupled with the prior discipline for similar offenses, constitutes job disqualifying misconduct.

The most recent incident is considered a current act of misconduct as the claimant had deliberately concealed from the employer the Medicaid issue involving a consumer until her disclosure on February 3, 2010. The claimant knew that her consumer was not Medicaid eligible in August 2009, and she concealed the issue from her supervisor knowing that this matter would lead to non-billable units (policy violation) and a financial loss to her employer.

**DECISION:**

The decision of the representative dated March 8, 2010, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on February 12, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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