

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TIMOTHY WELTER**  
Claimant

**APPEAL NO. 20R-UCX-00006-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEPARTMENT OF THE NAVY**  
Employer

**OC: 05/03/20**  
**Claimant: Appellant (1)**

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Iowa Code Section 96.5(5) - Pension

**STATEMENT OF THE CASE:**

Timothy Welter filed a timely appeal from the June 11, 2020, reference 01, decision that denied benefits effective May 3, 2020, based on the deputy's conclusion that Mr. Welter was receiving a military pension that was deductible from his unemployment insurance benefits and that the prorated weekly pension amount was greater than his weekly unemployment insurance benefits. After due notice was issued, a hearing was held on October 7, 2020. Mr. Welter participated. Haily Glasco represented the employer. Exhibits A through D and Department Exhibit D-1 were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, and KPYX.

**ISSUES:**

Whether the claimant is receiving a pension that is deductible from the claimant's unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Timothy Welter established an original claim for benefits that was effective May 3, 2020. The Department of the Navy is the sole base period employer. Based on base period wage information provided by the Navy, Iowa Workforce Development set Mr. Welter's weekly benefit amount for UCX benefit at \$545.00 per week. Mr. Welter separated from the Navy effective April 30, 2020. Effective May 1, 2020, Mr. Welter was eligible for a \$2,789.00 monthly pension. The first pension payment was issued on June 1, 2020 for the month of May 2020. The Navy made 100 percent of the contributions to the pension plan. The \$2,789.00 monthly pension equates to a \$33,468.00 annual pension, which equates to a \$643.62 weekly pension. The weekly pension amount exceeds Mr. Welter's unemployment insurance weekly benefit amount.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(5)(a)(3) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

...

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contribution to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

Iowa Admin. Code r. 871-24.13(1) provides, in relevant part, as follows:

Procedures for deducting payments from benefits. Any payment defined under subrules 24.13(2) and 24.13(3) made to an individual claiming benefits shall be deducted from benefits in accordance with the following procedures until the amount is exhausted...The amount of any payment under subrule 24.13(3) shall be fully deducted from the individual's weekly benefit amount on a dollar-for-dollar basis.

Iowa Admin. Code r. 871-24.13(3)(e) provides:

(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

e. Pension, retirement, annuity, or any other similar periodic payment made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced if the base period employer has made 100 percent of the contributions to the plan which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan.

The claimant has been receiving a military pension for the period beginning May 1, 2020. The pension is under a plan maintained by the Department of the Navy, the claimant's sole base period employer. The Navy made 100 percent of the contributions to the plan. The pension, stated in terms of a weekly pension amount, exceeds the claimant's unemployment insurance weekly benefit amount. Accordingly, the claimant is not eligible for unemployment insurance benefits beginning May 3, 2020. This disqualification is ongoing.

**DECISION:**

The June 11, 2020, reference 01, decision is affirmed. Effective May 3, 2020, the claimant is not eligible for unemployment insurance benefits due to his receipt of a military pension that is deductible from his unemployment insurance benefits and that exceeds his unemployment insurance weekly benefit amount.



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James E. Timberland  
Administrative Law Judge

October 12, 2020  
Decision Dated and Mailed

jet/sam