

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**THERESA M PEREZ**  
Claimant

**WEST DES MOINES COMMUNITY SCH DIS**  
Employer

**APPEAL 20A-UI-13172-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Respondent (4/R)**

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Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

West Des Moines Community School District (employer) appealed a representative's October 20, 2020, decision (reference 02) that concluded Theresa Perez (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 16, 2020. The claimant participated personally. The employer participated by Lynn Ubben, Human Resources Director. The administrative law judge took official notice of the administrative file.

**ISSUES:**

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 15, 2018, as a half-time bus associate. She worked during the school year and in the summer. On August 28, 2019, the employer hired the claimant as a noon supervisor and increased her from 0.50 to 0.75 time. She earned \$13.80 per hour and worked thirty-five hours per week or \$483.00.

The claimant also worked for R & L Carriers Shared Services. At R & L, she earned \$13.00 per hour and worked twenty-two hours per week or \$286.00. Her combined weekly wage was \$769.00 from March 15, 2020, through May 30, 2020. From May 31, 2020, through August 22, 2020, the claimant's weekly earnings were approximately \$286.00. The employer had no work for the claimant from May 31, 2020, through August 22, 2020, due to the pandemic.

The claimant filed for unemployment insurance benefits with an effective date of March 15, 2020. Her weekly benefit amount was determined to be \$342.00. The claimant received no

state unemployment insurance benefits. She filed each week but did not correctly report her gross wages.

The claimant filed for Pandemic Unemployment Assistance (PUA) and was approved as of March 15, 2020. She received PUA and Federal Pandemic Unemployment Compensation after March 15, 2020, based on her incorrect representation of income.

**REASONING AND CONCLUSIONS OF LAW:**

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.

From March 15, 2020, through May 30, 2020, the claimant was at all times employed and earning wages from the employer and R & L. The issue becomes whether she was partially unemployed insurance benefits. For a worker to be partially unemployed, she must be earning less than her WBA plus \$15.00. Each week the claimant earned \$769.00. This was greater than \$357.00, her WBA plus \$15.00. The claimant was not partially unemployed. She was not monetarily eligible for unemployment insurance benefits. Benefits are denied from March 15, 2020, through May 30, 2020.

From May 31, 2020, through September 22, 2020, the employer had no work for the claimant. The claimant was earning \$286.00 per week from R & L. This is less than \$357.00. She is eligible to receive partial state unemployment insurance benefits from May 31, 2020, through September 22, 2020.

The issue of the determination of the weekly benefit is remanded for determination.

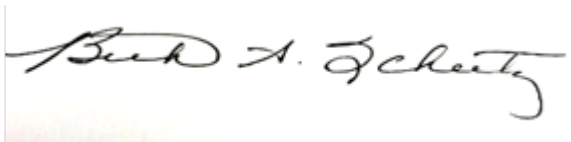
The issue of claimant's eligibility for PUA benefits is remanded for determination in light of her eligibility for state unemployment insurance benefits.

**DECISION:**

The October 20, 2020, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant is not monetarily eligible for unemployment insurance benefits from March 15, 2020, through May 30, 2020. She is eligible to receive partial state unemployment insurance benefits from May 31, 2020, through September 22, 2020.

The issue of the determination of the weekly benefit is remanded for determination.

The issue of claimant's eligibility for PUA benefits is remanded for determination in light of her eligibility for state unemployment insurance benefits.



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Beth A. Scheetz  
Administrative Law Judge  
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December 29, 2020  
Decision Dated and Mailed

bas/scn