

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELINE DESCOMBAZ

Claimant

APPEAL NO. 11A-UI-13057-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF HUMAN SVCS – ADMIN

Employer

OC: 08/07/11

Claimant: Appellant (1)

Iowa Code § 96.19-16A – Covered Wages - Employer

871 IAC 23.18(3) – Employer Employee Relationship - Family Members

STATEMENT OF THE CASE:

Jacqueline Descombaz (claimant) appealed an unemployment insurance decision dated September 23, 2011, reference 01, which denied her request to have wages added to her unemployment insurance claim between April 1, 2010 and March 31, 2011, because these wages were not in insured work paid by an employer covered under the Iowa law. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 26, 2011. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted and, therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant has base period wages that are covered by the unemployment insurance system.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant provided health care services for her father but was paid by the Iowa Department of Human Services (IDHS). She was an independent contractor and not an employee, as evidenced by the fact that she received an IRS 1099 Form, as opposed to an IRS W2 Form. As an independent contractor, IDHS was not required to pay unemployment tax on any monies or wages paid to the claimant. Thus, no wages earned from this employer can be added to the claimant's base period.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant has base period wages that are covered by the unemployment insurance system. The Iowa Employment Security Law deals only with employment relationships. If the claimant is found to be an independent contractor and not an

employee, the circumstances surrounding the severance of the business relationship with that company is immaterial to the claim for unemployment insurance benefits. In addition to the claimant being an independent contractor, the services she performed are specifically excluded from unemployment compensation.

871 IAC 23.18(96) – Nature of relationship between employer-employee

23.18(3) Members of family

c. Services performed by a son or daughter over the age of 18 as an approved provider for consumer-directed care in the employ of a father or mother who is an approved consumer of a home-and community-based waiver services program are exempt from the provisions of Iowa Code chapter 96.

The administrative law judge concludes that the claimant did not earn any wages that were covered under the Iowa Employment Security Law and her request is therefore denied.

DECISION:

The unemployment insurance decision dated September 23, 2011, reference 01, is affirmed. The claimant's request to have wages from non-insured work added to her unemployment claim was properly denied.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw