

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SARA J DAVIS**  
Claimant

**IOWA PHYSICIANS CLINIC MEDICAL**  
Employer

**APPEAL 20A-UI-06792-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20  
Claimant: Appellant (4R)**

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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 Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

The claimant/appellant, Sara J. Davis, filed an appeal from the June 9, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 29, 2020. The claimant participated personally. The employer, Iowa Physicians Medical, participated through Marian Klein, human resources business partner.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant eligible for total or partial unemployment benefits?  
Is claimant employed for the same hours and wages?  
Is the claimant able to and available for work?  
Is the employer’s account subject to charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed her claim with an effective date of April 12, 2020, in response to COVID-19. She has a weekly benefit amount of \$518.00. The claimant is employed full-time as a nuclear medicine technician. Her normal work week is 32 hours at \$34.64 per hour. The claimant made weekly continued claims for the period of April 12, 2020 through May 9, 2020. Each week that the claimant made a weekly continued claim for benefits, she earned at least \$485.00 in wages from the employer. She earned in excess of her weekly benefit amount plus fifteen dollars for all weeks except the week ending May 2, 2020.

She has resumed her regular schedule and discontinued reporting her weekly continued claims. She has worked all available hours.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was partially unemployed for the week ending May 2, 2020.

Iowa Code § 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", subparagraph (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".

(emphasis added).

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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.

(Emphasis added)

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit

amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

Iowa Code § 96.7(2)a(2)a provides:

Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the *individual is receiving the same employment from the employer that the individual received during the individual's base period*, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(emphasis added).

For any week, that the claimant is not employed under the same hours and wages as contemplated at hire, she is considered partially unemployed. Benefits may be allowed based upon reporting of weekly earnings. At this time, the claimant was partially unemployed and eligible for benefits for the week ending May 2, 2020 only. For all other weeks since April 12, 2020, the claimant has earned wages in excess of her weekly-benefit amount plus fifteen dollars, and is therefore not eligible for benefits.

For whatever period the employer is not offering the same wages and hours as contemplated in the contract or terms of hire, it *may* be liable for benefit charges to its account.

The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

**DECISION:**

The June 9, 2020 (reference 01) initial decision is modified in favor of the claimant/appellant. The claimant was partially unemployed for the week of May 2, 2020 only. Benefits are allowed for this week only, provided she meets all other requirements.

For all other weeks since April 12, 2020, the claimant has earned wages in excess of her weekly-benefit amount plus fifteen dollars, and is therefore not eligible for benefits.

**REMAND:** The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits for some of the weeks you filed weekly continued claims. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:  
[www.iowaworkforcedevelopment.gov/pua-information](http://www.iowaworkforcedevelopment.gov/pua-information)



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August 4, 2020  
Decision Dated and Mailed

jlb/scn