

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MALINDA A LENZ
Claimant

APPEAL NO. 10A-UI-06423-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAHASKA COUNTY HOSPITAL
Employer

OC: 02/07/10
Claimant: Respondent (1)

Section 96.5-5-b – Workers’ Compensation/Temporary Total Disability (TTD)
871 IAC 24.13(3)d – Deductible Payments from Benefits

STATEMENT OF THE CASE:

The employer appealed a department representative's decision dated April 20, 2010, reference 05, that held claimant was eligible for benefits effective April 18, 2010, as she was no longer receiving workers’ compensation. A telephone hearing was held on June 21, 2010. The claimant participated. Jackie Bresnahan, HR Director, participated for the employer. Employer Exhibit One was received as evidence.

ISSUE:

Whether claimant received workers’ compensation (TTD),

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds that: The claimant last worked for the employer on October 19, 2009. Although the claimant was denied her workers’ compensation claim, she was eligible and did receive short-term disability weekly payments through the employer insurance provider, Sun Life Financial. The claimant received her final payment of \$261.39 on April 22, 2010 that covered the period from April 19.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-5 provides:

An individual shall be disqualified for benefits:

5. Other compensation. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:
 - a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

b. Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

c. 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, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

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", "b", or "c", 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.

871 IAC 24.13(3)d 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:

d. Workers' compensation, temporary disability only. The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which the payment is paid.

The administrative law judge concludes that the claimant is eligible for benefits effective April 18, 2010, as she did not receive workers' compensation (TTD), and the short-term disability payment is not deductible.

The employer and claimant acknowledged the claimant was denied workers' compensation, and the benefit she received was from the employer insurance provider for short-term disability. The law does not specify that this payment is deductible from benefits.

NOTE: The department issued a decision dated April 20, 2010, reference 06, granting claimant division approved training (D.A.T.) benefits effective April 18, 2010.

DECISION:

The decision of the representative dated April 20, 2010, reference 05, is affirmed. The claimant is entitled to benefits effective April 18, 2010, provided she is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs