



Department of Inspections,  
Appeals, & Licensing

Iowa Department of Inspections, Appeals, & Licensing  
Administrative Hearings Division  
6200 Park Avenue, Suite 100, East Entrance  
Des Moines, IA 50321-1270

**Appeal Decision**

Claim Number:

Determination Number:  
7394188

Appeal Filed By:  
MIDWEST AUTISM AND THERAPY CENTER OF IOWA  
LLC

Appeal Filed Date:  
09/19/2025

Appeals Bureau Docket:  
2025147126-AT



**APPEALS BUREAU DECISION OF ADMINISTRATIVE LAW JUDGE**

Mail Date: December 15, 2025

**Appellee**

Claimant/Job Seeker: Zoe Carnes

Claimant address:  
[Redacted]  
[Redacted]  
[Redacted]

Social Security Number: [Redacted]

**Appellant**

Employer: Midwest Autism And Therapy  
Center Of Iowa Llc  
[Redacted]

In regard to the appeal by MIDWEST AUTISM AND THERAPY CENTER OF IOWA LLC:

**STATUTORY REFERENCE**

- Iowa Code § 96.5(1) - Voluntary Quit
- Iowa Code § 96.5(2)a - Discharge for Misconduct
- Iowa Code § 96.3(7) - Recovery of Benefit Overpayment
- Iowa Admin. Code r. 871-24.10 - Employer/Representative Participation Fact-finding Interview

**ISSUES STATEMENT**

Was the claimant discharged for disqualifying job-related misconduct?

**CASE HISTORY**

The employer filed an appeal from the September 12, 2025, unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 30, 2025. Claimant Zoe Carnes participated and testified. Employer Midwest Autism and Therapy Center of Iowa, LLC participated through Rose Delateur. The undersigned took official notice of the administrative record.

**FINDINGS OF FACT**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed full-time as a Registered Behavior Technician from January 6, 2025, until July 8, 2025, when the claimant

*Equal Opportunity:*

*Auxiliary aids and services are available upon request to individuals with disabilities. For deaf and hard of hearing, use Relay 711.*



was discharged for excessive absenteeism. Courtney Groom was the claimant's direct supervisor.

The employer maintains a written attendance policy outlining progressive disciplinary steps. Under the policy, an employee receives a verbal warning after three unexcused absences in a twelve-month period, a written warning after four unexcused absences, and a final written warning after five unexcused absences. An employee is subject to termination upon a sixth unexcused absence. The claimant received a verbal warning on February 8, 2025; a written warning on March 11, 2025; and a final written warning on June 4, 2025. The employer reviewed the attendance policy with the claimant at each disciplinary step. The employer did not submit the disciplinary forms into evidence.

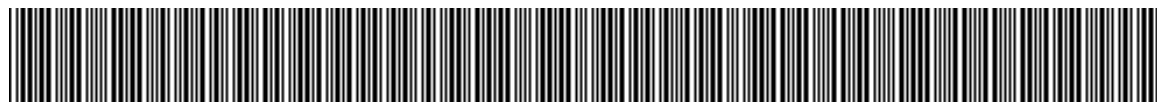
Between January 6 and July 8, 2025, the employer documented 28 tardies and 25 absences for the claimant. Twelve of the absences were properly reported and supported by medical documentation. At one point, the employer provided the claimant with a Fitness for Work form to determine whether accommodations were necessary. The claimant's physician indicated that no accommodations were required.

The employer documented the following absences:

- January 10, 2025
- January 16, 2025
- January 28, 2025
- January 29, 2025
- February 13, 2025
- February 17, 2025
- February 20, 2025
- February 27, 2025
- February 28, 2025
- March 4, 2025
- March 6, 2025
- March 7, 2025
- March 19, 2025
- March 31, 2025
- April 1, 2025
- April 23, 2025
- April 24, 2025
- April 25, 2025
- May 12, 2025
- May 13, 2025
- May 27, 2025
- June 3, 2025
- June 4, 2025
- June 30, 2025
- July 1, 2025

The employer documented the following tardies:

- January 7, 2025
- January 13, 2025
- January 22, 2025
- January 24, 2025
- January 30, 2025
- January 31, 2025
- February 4, 2025
- February 6, 2025
- February 10, 2025
- February 11, 2025
- February 12, 2025
- February 26, 2025
- March 11, 2025
- March 12, 2025
- March 14, 2025
- March 25, 2025



March 28, 2025  
April 7, 2025  
April 10, 2025  
April 18, 2025  
April 22, 2025  
May 1, 2025  
June 13, 2025  
June 16, 2025  
June 17, 2025  
July 2, 2025  
July 3, 2025  
July 8, 2025

The claimant acknowledged that she experienced frequent illness and ongoing health issues during the period of her employment. She testified that she suffers from several undiagnosed chronic health conditions and has frequent migraines that interfere with her vision. According to the claimant, many of her absences were attributable to these symptoms.

On June 30 and July 1, 2025, the claimant called in absent with what she believed to be a stomach bug. She later provided the employer with a medical note excusing her from work. Following those absences, the claimant was marked tardy on July 2, July 3, and July 8, 2025.

The employer made the decision to discharge the claimant on July 8, 2025. The employer testified that the termination was not based on a single final incident, but rather on the excessive overall pattern of absenteeism and tardiness. The employer confirmed that the June 30 and July 1 absences were properly reported and supported by documentation.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$930.75. The employer did not participate in the fact finding interview.

**CONCLUSION OF LAW**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason. Benefits are allowed.

Iowa Code section 96.5(2)(a) provides:

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

- 2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
  - a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.
  - b. Provided further, if gross misconduct is established, the department shall cancel the individual's wage credits earned, prior to the date of discharge, from all employers.
  - c. Gross misconduct is deemed to have occurred after a claimant loses employment as a result of an act constituting an indictable offense in connection with the claimant's employment, provided the claimant is duly convicted thereof or has signed a statement admitting the commission of such an act. Determinations regarding a benefit claim may be redetermined within five years from the effective date of the claim. Any benefits paid to a claimant prior to a determination that the claimant has lost employment as a result of such act shall not be considered to have been accepted by the claimant in good faith.
  - d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or even design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Misconduct by an individual includes but is not limited to all of the following:



(9) Excessive unexcused tardiness or absenteeism.

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6, 11 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262, 264 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679, 680 (Iowa Ctn. App. 1988).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

Excessive absences are not considered misconduct unless unexcused. Absences due to properly reported illness cannot constitute work-connected misconduct since they are not volitional, even if the employer was fully within its rights to assess points or impose discipline up to or including discharge for the absence under its attendance policy. Iowa Admin. Code r. 871-24.24(6); *Gaborit v. Emp't Appeal Bd.*, 743 N.W.2d 554, 557 (Iowa Ct. App. 2007). Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer. Iowa Admin. Code r. 871-24.24(6).

The requirements for a finding of misconduct based on absences are therefore twofold. First, the absences must be excessive. *Sallis v. Emp. Appeal Bd.*, 437 N.W.2d 895, 897 (Iowa 1989). The determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. *Higgins v. Iowa Dep't of Job Serv.*, 350 N.W.2d 187, 192 (Iowa 1984). Second, the absences must be unexcused. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6, 10 (Iowa 1982). The requirement of "unexcused" can be satisfied in two ways. An absence can be unexcused either because it was not for "reasonable grounds," *Higgins* at 191, or because it was not "properly reported," holding excused absences are those "with appropriate notice." *Cosper* at 10.

The determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness and an incident of tardiness is a limited absence. *Higgins* at 190. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. *Id.* at 191. Absences due to illness or injury must be properly reported in order to be excused. *Cosper* at 10-11. Absences in good faith, for good cause, with appropriate notice, are not misconduct. *Id.* at 10. They may be grounds for discharge but not for disqualification of benefits because substantial disregard for the employer's interest is not shown and this is essential to a finding of misconduct. *Id.*

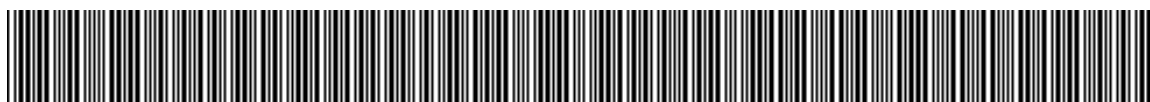
Excessive absenteeism has been found when there have been seven unexcused absences in five months; five unexcused absences and three instances of tardiness in eight months; three unexcused absences over an eight-month period; three unexcused absences over seven months; and missing three times after being warned. See *Higgins* at 192; *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa App. 1984); *Armel v. Emp't Appeal Bd.*, No. 07-0463, 2007 WL 3376929, at \*3 (Iowa App. Nov. 15, 2007); *Hiland v. Emp't Appeal Bd.*, No. 12-2300, 2013 WL 3458145, at \* 3 (Iowa App. July 10, 2013); and *Clark v. Iowa Dep't of Job Serv.*, 317 N.W.2d 517, 518 (Iowa App. 1982).

An employer's point system or no-fault absenteeism policy is not dispositive of the issue of qualification for benefits; however, an employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. Claimant had 28 tardies and 25 absences in a six-month period. There is no question that the claimant's absenteeism was excessive. However, absences must be both excessive and unexcused to result in a finding of misconduct.

Although the claimant had a significant history of absenteeism, the majority of claimant's absences were due to illness. A properly reported absence related to illness or injury is excused for the purpose of the Iowa Employment Security Act. Additionally, Iowa law requires the employer to establish a current unexcused absence or tardy as the basis for discharge. The employer agrees that the claimant's final two absences on June 30 and July 1 were properly reported and medically documented, and therefore excused. The employer did not provide testimony or documentation explaining the circumstances surrounding the claimant's final three tardies on July 2, 3, and 8, 2025, nor did it establish that those tardies were unexcused. The employer failed to prove a current, unexcused absence or tardy, and therefore the claimant was discharged for no disqualifying misconduct. Benefits are allowed. Because benefits are allowed, the issues of overpayment and chargeability are moot.

**DECISION/REMAND**

The September 12, 2025, unemployment insurance decision is AFFIRMED. There was no disqualifying separation with this



employer. The claimant is allowed benefits, provided they remain otherwise eligible.



Michael LUNN

Administrative Law Judge

Iowa Department of Inspections, Appeals, & Licensing

Administrative Hearings Division

Unemployment Insurance Appeals Bureau

**Please see the last page of this document for important information about reopening the appeal and further appeal rights.**



## INSTRUCTIONS FOR FILING AN APPEAL

If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, IA 50321  
Fax: (515)281-7191  
Online: IowaWORKS account

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

1. A reference to the decision from which the appeal is taken.
2. That an appeal from such decision is being made and such appeal is signed.
3. The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code 17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17a.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Iowa Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while the appeal is pending, to protect your continuing right to benefits.

### SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.



## **Babel Notice – Claim and Appeal Information**

**Aviso:** Aviso: Documento De Beneficios Del Seguro De Desempleo  
Y Información De Apelación

### **IMPORTANT!**

This document contains important information about your unemployment compensation rights, responsibilities and/or benefits. It is critical that you understand the information in this document. **DEADLINE FOR APPEAL:** If you disagree with this determination or decision, you must file an appeal before the deadline noted in this document. **IMMEDIATELY:** If needed, call 866-239-0843 for assistance in the translation and understanding of the information in the document(s) you have received.

### **¡IMPORTANTE!**

Este documento contiene información importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la información contenida en este documento. **PLAZO LÍMITE PARA APELAR:** Si usted está en desacuerdo con esta determinación o decisión, debe presentar una apelación antes del plazo límite indicado en este documento. **INMEDIATAMENTE:** Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 866-239-0843.

### **重要提示！**

这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。

**上诉截止日期：**如果您不同意本裁定或决定，您必须在本文件所载截止日期前提出上诉。**立即：**如果需要，请拨打866-239-0843，可获得帮助，以利您翻译和理解所收到的文件中的信息。

### **IMPORTANT!**

Ce document contient des informations importantes sur vos droits d'allocation de chômage, vos responsabilités et/ou vos bénéfices. Il est indispensable que vous compreniez le contenu de ce document. **DATE LIMITE POUR FAIRE APPEL:** Si vous n'êtes pas d'accord avec cette détermination ou décision, vous devrez faire un appel avant la date limite signalée dans ce document. **IMMÉDIATEMENT:** Si nécessaire, téléphonez au 866-239-0843 pour avoir de l'assistance sur la traduction et/ou la compréhension de ce document.

### **WICHTIG!**

Diese Dokument enthält wichtige Hinweise zu ihren Rechten, Pflichten bzw. Leistungen im Rahmen der Arbeitslosenunterstützung. Es ist entscheidend, dass Sie die Informationen in diesem Dokument verstehen. **FRIST ZUR BESCHWERDEEINLEGUNG:** Wenn Sie mit der Feststellung oder Entscheidung nicht einverstanden sind, müssen Sie vor Ablauf der in diesem Dokument aufgeführten Frist eine Beschwerde einlegen. **SOFORT:** Sofern erforderlich, rufen Sie die Telefonnummer 866-239-0843 an und erkundigen sich nach Hilfsdiensten bei der Übersetzung und zum Verständnis der Informationen in dem (den) von Ihnen erhaltenen Dokument(en).

### **IMPORTANTE!**

Ang mga dokumentong ito ay naglalaman ng mahalagang impormasyon tungkol sa iyong mga karapatan na makatanggap ng kabayaran, mga responsibilidad at /o benepisyo dahil sa pagkawala ng trabaho. Napakahalagang maunawaan mo ang mga impormasyong nilalaman sa dokumentong ito. **HULING ARAW PARA UMAPILA:** Kung hindi ka sumasang-ayon sa pagpapasiya o desisyon, dapat kang maghabol o magharap ng apila bago dumating ang huling araw na nabanggit sa dokumentong ito. **KAAGAD:** Kung kinakailangan ang tulong, tumawag sa 866-239-0843 para sa pagsasalin ng wika at pag-unawa ng impormasyon sa mga dokumentong natanggap mo.

### **IMPORTANTE:**

Questo documento contiene informazioni importanti sui Suoi diritti di indennizzo di disoccupazione, sulle sue responsabilità e i suoi benefit. E' cruciale che Lei comprenda appieno le informazioni contenute in questo documento. **SCADENZA PER IL RICORSO:** Se non si trova in accordo con questa determinazione o decisione, dovrà presentare ricorso prima della scadenza riportata nel presente documento. **INMEDIATAMENTE:** In caso di necessità chiami il 866-239-0843 per assistenza alla traduzione e comprensione delle informazioni contenute nei documenti ricevuti.

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Tài liệu này chứa đựng tin tức quan trọng về quyền hạn, trách nhiệm và/hoặc những lợi ích được đền bù trong khi thất nghiệp. Đó là điều tối cần thiết mà quý vị phải hiểu rõ những tin tức trong tài liệu này. **HẠN CHÓT KHIẾU NẠI:** Nếu quý vị không đồng ý với quyết định này, quý vị phải nộp đơn khiếu nại trước hạn chót ghi rõ trong tài liệu này. **MỘT CÁCH NHANH CHÓNG:** Nếu cần xin hãy gọi số 866-239-0843 để được giúp đỡ trong việc phiên dịch và hiểu rõ những tin tức trong tài liệu quý vị đã nhận.

### 중요!

이 문서는 실업보상 권리, 책임 및/또는 혜택에 대한 중요한 정보가 포함되어 있습니다. 이 문서에 있는 정보를 이해 하는 것은 매우 중요합니다. **항소 마감:** 이 결정에 이견이 있으시면 항소인은 문서에 언급된 마감일 전에 항소를 제기하셔야 합니다. **즉시:** 받으신 문서의 번역 및 이해를 위해서 도움이 필요하시면 866-239-0843 로연락을 하시기 바랍니다.

### WAŻNE!

Dokumenty mogą zawierać ważne informacje o Pana(-i) prawach do zasiłków dla bezrobotnych, obowiązków i/lub świadczeń. Zrozumienie informacji zawartych w niniejszym dokumencie jest bardzo ważne. **DATA WYGAŚNIĘCIA TERMINU SKŁADANIA ODWOŁAŃ:** Jeśli nie zgadza się Pan(-i) z decyzją zawartą w niniejszym dokumencie, odwołanie należy złożyć przed datą wygaśnięcia terminu wyszczególnionego w treści niniejszego dokumentu. **NATYCHMIAST:** W razie potrzeby, należy dzwonić pod 866-239-0843 w celu uzyskania pomocy w tłumaczeniu i zrozumieniu informacji w dokumentach, które Pan(i) otrzymał(-a).

### ВАЖНО!

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### VAŽNO!

Ovaj dokument sadrži važne informacije o vašim pravima za naknadu nezaposlenosti, odgovornostima i/ili beneficijama. Veoma je važno da shvatite informacije u ovom dokumentu. **ROK ZA ŽALBU:** Ako se ne slažete s ovim određivanjem ili odlukom, morate uložiti žalbu prije roka navedenog u ovom dokumentu. **ODMAH:** Ako je potrebno, nazovite 866-239-0843 za pomoć u prijevodu i razumijevanju informacija u dokumentu(ima) kojeg ste primili.

### ໝາຍເຫລາະສາ

ສໍາຄັນ! ເອກະສານນີ້ປະກອບດ້ວຍຂໍ້ມູນທີ່ສໍາຄັນກ່ຽວກັບສິດທິການຊົດເຊີຍການຫວ່າງງານ, ຄວາມຮັບຜິດຊອບ ແລະ/ຫຼືຜົນປະໂຫຍດຂອງທ່ານ. ມັນເປັນສິ່ງ ສໍາ ຄັນທີ່ທ່ານຕ້ອງເຂົ້າໃຈຂໍ້ມູນໃນເອກະສານນີ້. ກໍານົດເວລາການອຸທອນ: ຖ້າທ່ານບໍ່ເຫັນດີກັບການກໍານົດ ຫຼືການຕັດສິນໃຈນີ້, ທ່ານຕ້ອງອໍ້ນອຸທອນກ່ອນກໍານົດເວລາທີ່ລະບຸໄວ້ໃນເອກະສານນີ້. ທັນທີ: ຖ້າຕ້ອງການ, ໃຫ້ໃບຫາ 866-239-0843 ສໍາລັບການຊ່ວຍເຫຼືອໃນການແປ ແລະຄວາມເຂົ້າໃຈຂອງຂໍ້ມູນໃນເອກະສານທີ່ທ່ານໄດ້ຮັບ.

### هام!

تحتوي هذه الوثيقة/ الوثائق على معلومات مهمة حول حقوق تعويض البطالة ومزاياها، لذا من الأهمية فهم المعلومات الواردة فيها. وإن كنت غير موافق على ما تحمله هذه الوثيقة/ الوثائق فيجب عليك تقديم استئناف قبل الموعد النهائي المشار إليه في هذه الوثيقة والاتصال فوراً على الرقم التالي: 866-239-0843 (٨٦٦٢٣٩٠٨٤٣) وإذا كنت بحاجة إلى مساعده في ترجمة وفهم المعلومات الواردة في هذه الوثيقة فلا تردد بالسؤال.