

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAY W OWENS

Claimant

APPEAL 16A-UI-12629-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

INDIANOLA COMMUNITY SCHOOL DIST

Employer

OC: 05/01/16

Claimant: Respondent (1)

Iowa Code § 96.5(5)b – Workers' Compensation/Temporary Total Disability Benefits
Iowa Admin. Code r. 871-24.13(3)d – Workers' Compensation/TTD Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from the November 14, 2016, (reference 05) unemployment insurance decision that allowed benefits as of May 1, 2016 and concluded claimant was no longer receiving workers' compensation for a temporary disability. The parties were properly notified about the hearing. A telephone hearing was held on December 22, 2016. Claimant participated. Jon Geyer participated on claimant's behalf. Employer participated through school business official, Johna Clancy, and business office assistant, Shelley Royer. Claimant Exhibit A was admitted into evidence with no objection. Official notice was taken of the administrative record of claimant's benefit payment history, with no objection.

ISSUE:

Is the claimant receiving deductible workers' compensation benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was injured at work and reached maximum medical improvement (MMI) on March 17, 2016. Claimant Exhibit A. Claimant filed a claim for the unemployment insurance benefits effective May 1, 2016. Claimant received permanent partial disability (PPD) workers' compensation benefits (\$439.17 per week) from March 17, 2016, through October 2, 2016. Claimant Exhibit A. Prior to March 17, 2016, claimant received temporary total disability (TTD) workers' compensation benefits. Claimant Exhibit A.

Claimant received UI benefits for the twenty-eight week period ending November 12, 2016. Claimant's unemployment insurance weekly benefit amount is \$447.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes PPD workers' compensation benefits are not deductible from UI benefits. Benefits are allowed.

Iowa Code § 96.5(5) provides:

An individual shall be disqualified for benefits:

5. Other compensation.

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

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

(3) 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 subparagraph, 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.

b. 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", subparagraph (1), (2), or (3), 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.

Iowa Admin. Code r. 871-24.13(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. (Emphasis added.)

Claimant filed his unemployment insurance benefit claim with an effective of May 1, 2016. From March 27, 2016, through October 2, 2016, claimant was receiving workers' compensation benefits designated as PPD. Since claimant received workers' compensation benefits

designated as PPD rather than TTD, the PPD amount is not deducted from UI benefits. Benefits are allowed.

DECISION:

The November 14, 2016, (reference 05) unemployment insurance decision is affirmed. Claimant received PPD benefits since he filed his claim for unemployment insurance benefits with an effective date of May 1, 2016. Benefits are allowed, provided claimant is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs