



DEMANDING A HEALTHY WAY BACK TO WORK

Jobless benefits directive misreads Iowa and federal law in crisis

By Colin Gordon, IPP Senior Research Consultant

Iowans want to get back to work. But — much more importantly — they want to get back to work under conditions that protect their health and safety, and the health and safety of their families and communities.

Over the past few weeks, we have questioned both the metrics¹ and the lack of transparency² behind the state's decision — virtually alone among its peers³ — to stop short of a “shelter in place” order. Those concerns are now magnified by the announcement this week⁴ that Governor is lifting social distancing measures in 77 of Iowa's 99 counties — this despite the fact that the caseload in Iowa continues to grow, that two of Iowa's metros (Sioux Falls and Waterloo-Cedar Falls) are currently among the worst “hot spots”⁵ in the entire country, and that a sudden influx in social interactions, as the Iowa Medical Society⁶ warned earlier this week, “is all but certain to cause a spike in new COVID-19 patients and potentially overwhelm our health care system.”

Even more troubling is the clear evidence that public health policy is being driven by largely economic concerns. At the same moment as the Governor's office announced the relaxation of restrictions, Iowa Workforce Development (IWD) chimed in with a chilling directive⁷ for unemployed Iowans — warning not only that “Iowans who refuse to return to work without good reason when recalled will lose eligibility to unemployment benefits,” but that those who continued to draw benefits in defiance of this directive faced “serious consequences for fraud, including fines, confinement and ineligibility for future unemployment benefits.” IWD even created a webform⁸ where employers are encouraged to “report employees who refuse to return to work without good reason or who quit their jobs.”

The IWD directive goes on to list a narrow range of “good cause” reasons for remaining unemployed — including a positive COVID test (for the worker or a member of her or his household), and the loss of child care or transportation to work because of COVID-19.

This directive — and the message it sends to working Iowans — is bad public health policy in a state where the most severe COVID outbreaks have occurred at workplaces. Just as important, it offers a fundamentally flawed misreading of both Iowa law and the terms of the federal Families First and CARES Acts.

Iowa Code (871-Chapter 24.26 [96]) is crystal clear on this point, and offers a much broader set of conditions and options. A person who leaves a job due to “unsafe working conditions” or “intolerable or detrimental working conditions” cannot be considered to have voluntarily quit the position, which would make the worker ineligible for unemployment benefits. The determination of what is “unsafe” or “intolerable” depends upon both the workplace and the worker. A reasonable standard of safety, under these conditions, might be the guidance offered by the Centers for Disease Control⁹ or the Occupational Health and Safety Administration¹⁰ for best practices — regarding social distancing and protective equipment — for workplaces. Yet, while IWD is directed to discourage claims and applications, there is no accompanying expectation that such safety guidelines are mandatory in Iowa workplaces.

Federal law offers the same basic assurance. For workers collecting regular UI, the federal “prevailing conditions of work” provision prohibits a state from denying UI to a worker who refuses work if the “the

wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.” This provision covers “work rules, including health and safety rules” and situations where there has been a change in the existing conditions of work. According to the legislative history of the provision, it “requires a liberal construction in order to carry out the Congressional intent and the public policy embodied therein,” and the “the claimant should be given the benefit of the doubt.”

In turn, IWD’s directive flies in the face of the federal programs (and money) designed to both prop up Iowa’s unemployment system through the crisis and offer a more generous approach to eligibility. The Families First Act (passed in mid-March) offered emergency grants to states (including Iowa) for the administration of unemployment under the condition that states streamline their application process and “demonstrate policies to increase access to unemployment compensation.” The Act also requires a report, due at this time next year, detailing how progress on increased access.

The CARES Act (passed in late March) established three new unemployment programs: Pandemic Unemployment Assistance (PUA) for those workers (self-employed, gig workers) not conventionally eligible for unemployment insurance; Pandemic Unemployment Compensation (PUC), which adds \$600 per week (through the end of July) to all unemployment claims paid under either regular UI or the PUA; and Pandemic Emergency Unemployment Compensation (PEUC), a 13-week extension of state UI benefits.

The programs extended the logic of the Families First Act: States were expected to be expansive and generous in their approach to eligibility for unemployment insurance, making it both possible and economically feasible for workers to shelter in place and avoid the risks posed in many settings by continued employment. Importantly, the CARES Act attached a list of COVID-related conditions (similar to that in the IWD directive) to the PUA program, but not to the expansion or extension of regular UI benefits.

The IWD’s “Back to Work” directive is bad public policy. On public health grounds, it sends exactly the wrong message at exactly the wrong time. And, in clear defiance of Iowa and federal standards for unemployment insurance eligibility, it puts the economic security and physical health of Iowa workers at dire and unnecessary risk. The Governor and Iowa Workforce Development to reverse course and protect our workers and their families.

¹ Peter Fisher, Iowa Policy Points, “Governor’s metrics still raise questions.” April 15, 2020, <https://bit.ly/2SoMOXp>

² Peter Fisher, Iowa Policy Points, “Sheltering the data in place.” April 8, 2020. <https://bit.ly/3bQAt6g>

³ The New York Times, “See Which States and Cities Have Told Residents to Stay at Home.” April 2020. <https://nyti.ms/2yZtnxs>

⁴ Office of the Governor, news release. April 27, 2020. <https://bit.ly/35jsDQ5>

⁵ The New York Times, “Five Ways to Follow the Coronavirus Outbreak for Any Metro Area in the U.S.” April 2020. <https://nyti.ms/3f8ScI8>

⁶ The Des Moines Register, “Governor Kim Reynolds begins process of reopening state as bans on nonessential surgeries, farmers’ markets lifted.” April 24, 2020. <https://bit.ly/3aSL1R5>

⁷ Iowa Workforce Development, “IWD announces Guidance on Unemployment Benefits.” April 27, 2020. <https://bit.ly/3bUyaip>

⁸ Iowa Workforce Development, “Job Offer Decline Form for Employers.” <https://bit.ly/2KKI8qR>

⁹ Centers for Disease Control, “Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19).” <https://bit.ly/2Ymr1DN>

¹⁰ Occupational Health and Safety Administration, “Guidance on Preparing Workplaces for COVID-19.” <https://bit.ly/3aN6ISo>

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