

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMY M AUSBORN

Claimant

IMAGINE THE POSSIBILITIES

Employer

APPEAL 20A-UI-13309-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20

Claimant: Appellant (4R)

Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Amy M. Ausborn, filed an appeal from the October 22, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 18, 2020. The claimant participated. The employer, Imagine the Possibilities Inc., participated through Wendy Davis.

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.

ISSUE:

Is the claimant able to work and available for work effective March 29, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a caregiver. Claimant last performed work on March 17, 2020. Claimant’s shift was Monday-Friday, 7:00 a.m. until 3:00 or 4:00 p.m. and occasional weekends.

Claimant initiated a leave of absence to care for her children, whose school/childcare closed due to COVID-19. It was closed from March 17, 2020 and reopened the week of June 20, 2020.

Claimant contacted employer June 20, 2020 to return to work. Employer had restructured its staff and claimant’s shift was no longer available. Claimant was offered a shift of 8:00 a.m. to 9:00 p.m., which she could not work due to childcare being closed. Claimant could have returned to work effective June 20, 2020 had she been offered the same hours and wages for which she was hired.

Claimant permanently separated from employment with this employer August 17, 2020. The issue of claimant's permanent separation has not yet been adjudicated.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able and available effective June 20, 2020.

For an unemployed individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Iowa Admin. Code r. 871—24.23 Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

From March 29, 2020 until June 20, 2020, claimant was not able and available due to a lack of childcare. Regular state-funded unemployment insurance benefits are denied for that period of time. Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

Effective June 20, 2020, claimant has established she is able and available for work. Benefits are allowed, provided she is otherwise eligible.

The issues of whether the claimant was working the same hours/wages for which she was hired was totally, partially or temporarily unemployed effective June 20, 2020 and her permanent separation from employment effective August 17, 2020 are remanded to the Benefits Bureau for an initial investigation and decision.

DECISION:

The unemployment insurance decision dated October 22, 2020, (reference 02) is modified in favor of the claimant/appellant. The claimant is not able and available for work March 29, 2020 through June 19, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.

Claimant is able and available for work effective June 20, 2020. Benefits are allowed, provided she is otherwise eligible.

REMAND:

The issues of whether the claimant was working the same hours/wages for which she was hired was totally, partially or temporarily unemployed effective June 20, 2020 and her permanent separation from employment effective August 17, 2020 are remanded to the Benefits Bureau for an initial investigation and decision.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

December 31, 2020
Decision Dated and Mailed

jlb/scn

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits. 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

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.