

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BOBBIE PETERSEN
Claimant

GENESIS HEALTH SYSTEM
Employer

APPEAL 21A-UI-05704-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (2)

Iowa Code § 96.19(38) – Definitions – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.7(2)A(2) – Charges – Same base period employment
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages

STATEMENT OF THE CASE:

The employer filed an appeal from the February 15, 2021, (reference 02) unemployment insurance decision that granted benefits based upon the conclusion the claimant was on a short term layoff. The parties were properly notified of the hearing. A telephone hearing was held on April 26, 2021. The claimant participated and testified. The employer participated through Supervisor Arunan Soundranayagam and Human Resources Coordinator Nicki Lear. The administrative law judge took official notice of the agency records.

ISSUES:

1. Is claimant able to and available for work effective November 29, 2020?
2. Is the claimant partially or totally unemployed?
3. If benefits are granted, then which employer is subject to charge?

FINDINGS OF FACT:

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

The claimant began working for employer on August 17, 2009. In November 2020, the claimant worked as a full-time phlebotomist II. Her schedule was 3:00 a.m. to 1:30 p.m. Sunday through Saturday. Her hourly rate was \$14.96.

The employer has a Covid19 spread mitigation practice which requires employees to quarantine for 10 days if they are exhibiting symptoms.

On November 29, 2020, the claimant called in sick to the employee health nurses. The claimant was experiencing chills, cough, headache and a running nose on that day. The claimant used 5.5 hours of paid time off to cover her absence.

On December 2, 2020, the claimant obtained a Covid19 test from her physician. Although the claimant received a negative test result, her physician instructed her to quarantine until December 10, 2020. The claimant stopped experiencing symptoms on December 3, 2020.

On December 10, 2020, the claimant returned to work as scheduled. The employer would have provided the claimant with work if she had not been under restrictions from her doctor.

The claimant did not work for any other employers during the period he was on quarantine.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work effective November 29, 2020. The remaining issues are moot.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23 (1), (10), and (35) provide:

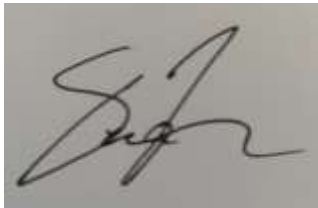
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

- (1) An individual who is ill and presently not able to perform work due to illness.
- (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.
- (35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

In this case, the parties dispute whether the claimant or the employer initiated a leave of absence. This question does not need to be resolved because the claimant was either ill or she had not been released by her doctor to return to work for the entire period she was on quarantine. These facts disqualify her under Iowa Admin. Code r. 871-24.23 (1) and (35). The remaining issues are moot because the claimant was not able and available for work during her quarantine. Benefits are denied.

DECISION:

The February 15, 2021, reference 02, unemployment insurance decision is reversed. The claimant was not able and available for work effective November 29, 2020. Benefits are denied.



Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

April 30, 2021
Decision Dated and Mailed

smn/ol

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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.