

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAVID GARCIA ZUNIGA**  
Claimant

**MANPOWER INTERNATIONAL INC**  
Employer

**APPEAL 20A-UI-06289-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Appellant (1R)**

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Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant/appellant, David Garcia Zuniga, filed an appeal from the June 12, 2020 (reference 03) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2020. The claimant participated personally and through a Spanish interpreter with CTS Language Link. The employer, Manpower International Inc., participated through Leann Gulrud, recruiter with the Decorah office. 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 and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has never performed work for this employer, but was supposed to begin work in April 2020. He stated he took a pre-employment drug test but was not able to perform work due to COVID-19, which was confirmed by testing. He remained off work because he had continued symptoms until he accepted new employment effective June 22, 2020.

Claimant previously worked for another employer, Pipeline Foods, until April 6, 2020, when he was fired. The issue of his separation with Pipeline Foods has not been addressed by the Benefits Bureau.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work effective April 5, 2020.

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 96.1A, subsection 38, paragraph "b", subparagraph (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. 871-24.23(1) and Iowa Admin. Code r. 871-24.23(23) 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.

...

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

For an individual to be eligible to receive benefits, he 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 he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The administrative law judge recognizes the claimant has filed his current claim due to hardship related to the COVID-19 pandemic. Here, the employer had work available for the claimant. However, the claimant informed the employer he was unable to work due to illness. Once he recovered, he resumed full-time work and was therefore, no longer unemployed. Since he established his claim for unemployment insurance benefits with an effective date of April 5, 2020, the claimant has not been able and not available for work, according to Iowa law. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits.

**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.**

The issues of the claimant's permanent separation from Pipeline Foods on April 6, 2020 and whether the claimant is overpaid any benefits are remanded to the Benefits Bureau for an initial investigation and decision.

**DECISION:**

The unemployment insurance decision dated June 12, 2020, (reference 03) is affirmed. The claimant is not able and available for work effective April 5, 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.

**REMAND:** The issues of the claimant's permanent separation from Pipeline Foods on April 6, 2020 and whether the claimant is overpaid any benefits are remanded to the Benefits Bureau for an initial investigation and decision.

**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](http://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.**



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July 28, 2020  
Decision Dated and Mailed

jlb/scn