

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHANNON R JONES**  
Claimant

**GRAPETREE MEDICAL STAFFING INC**  
Employer

**APPEAL 21A-UI-05405-DZ-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 11/08/20**  
**Claimant: Appellant (4)**

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Iowa Code § 96.19(38) – Total and Partial Unemployment  
Iowa Code §96.4(3) – Able to and Available for Work  
Iowa Admin. Code r. 871-24.23(26) – Same Hours and Wages  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

Shannon R Jones, the claimant/appellant filed an appeal from the February 5, 2021, (reference 02) unemployment insurance decision that denied benefits as November 8, 2020. The parties were properly notified about the hearing. A telephone hearing was held on April 22, 2021. Ms. Jones participated and testified. The employer did not register for the hearing and did not participate. Official notice was taken of the administrative record. Claimant's Exhibits A-D were admitted into evidence.

**ISSUES:**

Is Ms. Jones totally, partially or temporarily unemployed?  
Is Ms. Jones able to and available for work?  
Is Ms. Jones still employed at the same hours and wages?  
Is the employer's account subject to charge?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Jones stopped working for the employer in June 2020. Ms. Jones was pregnant. Ms. Jones stopped working due to her pregnancy. She gave birth in late July 2020. Ms. Jones asked the employer to put her in inactive status until September 2020. Ms. Jones was ready to return to work in September 2020.

In early November 2020, Ms. Jones began experiencing medical issues, including COVID-19 symptoms. She was in and out hospital and going to multiple medical appointments to try to figure out what the issues were. In January 2021, Ms. Jones' doctor advised her to not drive and to not work due to her medical issues. Ms. Jones' doctor released her to return to work on April 12, 2020.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that Ms. Jones is not able to and available for work from November 8, 2020 through April 11, 2021.

Iowa Code § 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 Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.23(26) provides:

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.

(2) An individual presently in the hospital is deemed not to meet the availability requirements of Iowa Code section 96.4(3) and benefits will be denied until a change in status and the individual can meet the eligibility requirements. Such individual must renew the claim at once if unemployed.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

(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.

Iowa Code section 96.7(2)a(2)(a) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

In this case, Ms. Jones was either ill or in the hospital from November 8, 2020, the effective date of her claim, through December 31, 2020 due to the medical issues she was facing. From January 2021 through April 11, 2021, Ms. Jones was under the care of her doctor who advised her not to work and to not drive due to her medical issues. Since Ms. Jones was not able to work from November 8, 2020 through April 11, 2021, regular, state-funded unemployment insurance benefits are denied during this time period.

Even though Ms. Jones is not eligible for regular unemployment insurance benefits under state law from November 8, 2020 through April 11, 2021, 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 during this time period. 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 up to 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.

**DECISION:**

The February 5, 2021, (reference 02) unemployment insurance decision is modified in favor of the appellant, Ms. Jones. Ms. Jones was not able to and available for work from November 8, 2020 through April 11, 2021. Benefits are denied during this time period. Benefits are allowed effective April 12, 2021.



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

April 27, 2021  
Decision Dated and Mailed

dz/ol

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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 under state law 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.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**