

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHAEL S WELLS**  
Claimant

**APPEAL 21A-UI-17339-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JOHN DEERE COMPANY**  
Employer

**OC: 04/25/21  
Claimant: Appellant (3)**

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Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.1(A)37 – Total, Partial, Temporary Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Admin. Code r. 871-24.23(26) – Same Hours and Wages

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the July 27, 2021 (reference 01) unemployment insurance decision that found claimant was not eligible for unemployment benefits because he was still employed at the same hours and same wages as his original contract of hire effective May 2, 2021. The parties were properly notified of the hearing. A telephone hearing was held on September 29, 2021. The claimant participated personally. The employer did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Is the claimant eligible for total, partial, or temporary unemployment benefits?  
Is claimant employed for the same hours and wages?  
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: Claimant started working for this employer on November 15, 2020 and continues to work to date as a full-time welder. From April 4, 2021 through April 17, 2021, claimant was laid off due to lack of production at work. He did not work or earn wages during that time. Claimant did not file his original claim for unemployment insurance benefits until April 25, 2021. His original claim date was not backdated. As of his original claim date of April 25, 2021, the claimant was back to work full-time.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 96.4(3) provides:

Required Findings.

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 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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) was replaced by Iowa Code § 96.1A(37). Iowa Code § 96.1A(37) provides as follows:

Definitions. As used in this chapter, unless the context clearly requires otherwise:

37. "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. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

Iowa Code § 96.7(2)a(2)a provides:

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.

(emphasis added).

Iowa Admin. Code r. 871-24.23(23) provides:

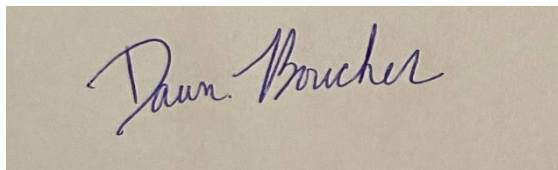
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

Effective April 25, 2021, claimant was working full-time for his employer. His unemployment occurred prior to his original claim date and no weekly-continued claims for benefits were filed for the weeks in which claimant was totally unemployed. As such, benefits are denied effective April 25, 2021 as the claimant was not able to and available for other work due to him being employed full-time for this employer. See Iowa Code § 96.4(3).

**DECISION:**

The July 27, 2021 (reference 01) decision is modified in favor of the respondent. Claimant was not totally, partially, or temporarily unemployed effective April 25, 2021. Claimant was also not able to and available for work pursuant to Iowa Code § 96.4(3). Regular unemployment insurance benefits are denied effective April 25, 2021 and continuing until the claimant establishes that he was able to and available for work and otherwise eligible for benefits.



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Dawn Boucher  
Administrative Law Judge

October 1, 2021  
Decision Dated and Mailed

db/scn

**Note to Claimant**

- This decision may determine you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law and 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.