

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MICHAEL M MEIER**  
Claimant

**BLACKTOP SERVICE CO**  
Employer

**APPEAL 20A-UI-07660-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/05/20**  
**Claimant: Appellant (1R)**

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

**STATEMENT OF THE CASE:**

On July 7, 2020, Michael Meier (claimant/appellant) filed an appeal from the June 30, 2020 (reference 01) unemployment insurance decision that denied benefits effective May 3, 2020, due to claimant being unavailable for work.

A telephone hearing was held on August 12, 2020. The parties were properly notified of the hearing. The claimant participated personally. His wife, Kathy Meier, participated as a witness. Blacktop Service Co (employer/respondent) participated by Executive Vice President Alissa Wagner. HR Representative Keith Gibson participated as a witness for employer.

**ISSUES:**

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 began working for employer in 2013. The last day claimant worked on the job was November 13, 2019. Claimant was employed at that time as a full-time flagger. He was then laid off over the winter months. Claimant is no longer employed by employer.

Claimant was contacted to return to work beginning April 27, 2020. Claimant did not initially return due to having doctors appointments. Claimant subsequently informed Wagner that he did not feel safe returning to work at that time due to the pandemic. Wagner interpreted this as conversation as claimant quitting, while claimant believed he was simply taking a leave of absence until it was safe for him to return to work. Claimant's age and medical conditions make him particularly susceptible to COVID-19. In claimant's position, he was often coming into contact with members of the public and was in close quarters with coworkers. There was no further communication between claimant and employer after that time. Claimant has not made himself available for work since that time.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the June 30, 2020 (reference 01) unemployment insurance decision that denied benefits effective May 3, 2020, due to claimant being unavailable for work is AFFIRMED.

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".

Claimant was not formally granted a leave of absence. However, he has made himself unavailable for work beginning May 3, 2020 and continuing to present. As such, he does not meet the eligibility requirements for benefits, and benefits must be denied effective that date.

**While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.**

## **DECISION:**

The June 30, 2020 (reference 01) unemployment insurance decision that denied benefits effective May 3, 2020, due to claimant being unavailable for work is AFFIRMED. Claimant is unavailable for work from that date and is not eligible for benefits effective that date.

## **REMAND:**

The issue of whether claimant has been overpaid regular benefits or Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau for an investigation and decision.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

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August 21, 2020  
Decision Dated and Mailed

abd/sam

***Note to Claimant:***

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.