

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARY R KAPUSTKA
Claimant

APPEAL 20A-UI-06729-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAINSTREAM LIVING INC
Employer

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

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On June 22, 2020, Mary Kapustka (claimant/appellant) filed an appeal from the June 16, 2020 (reference 01) unemployment insurance decision that denied benefits.

A telephone hearing was held on July 29, 2020. The parties were properly notified of the hearing. The claimant participated personally. Mainstream Living Inc (employer/respondent) participated by HR Director Marcanne Lynch.

Employers Exhibit 1 was admitted. Claimant's exhibits 1-4 were admitted. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

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

Claimant works for employer as a full-time direct support professional. Claimant's first day of employment was June 12, 2007. The last day claimant worked on the job was March 22, 2020. Claimant began a leave of absence on or about March 26, 2020. Claimant requested and was granted a leave of absence at that time due to medical concerns relating to the pandemic. Claimant's age and medical conditions make her particularly susceptible to COVID-19. Claimant consulted with two doctors, who both recommended she not work. Claimant has not yet returned to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the June 16, 2020 (reference 01) unemployment insurance decision that denied benefits 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".

Iowa Admin. Code r. 871-24.23(10) provides:

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

(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.

Claimant requested and was granted a leave of absence beginning March 26, 2020. Claimant is still on that leave of absence. Claimant is unavailable for work during the leave of absence and as such is not eligible for benefits. Benefits must be denied.

The administrative law judge notes that while this decision denies regular, state unemployment benefits, claimant may well be eligible for Pandemic Unemployment Assistance (PUA), as the evidence received indicates she is not working due to the pandemic. Further information on PUA is set forth below.

DECISION:

The June 16, 2020 (reference 01) unemployment insurance decision that denied benefits is **AFFIRMED**. Claimant is unavailable for work beginning March 26, 2020, and as such is ineligible for benefits from that date.



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

August 6, 2020
Decision Dated and Mailed

abd/mh

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 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.