

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**REGINA D SIEBERT**  
Claimant

**MERCY HEALTH SERVICES IOWA CORP**  
Employer

**APPEAL 21O-UI-15207-AD-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (4R)**

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

**STATEMENT OF THE CASE:**

On October 28, 2020, Regina Siebert (claimant/appellant) filed an appeal from the October 22, 2020 (reference 03) unemployment insurance decision that denied benefits from May 10 through May 30, 2020 based on a finding claimant was unable to work for personal reasons.

A telephone hearing was set for December 22, 2020. Claimant did not register a number for the hearing and a default decision was entered. The Employment Appeal Board (EAB) remanded for a new hearing, which was set for May 6, 2021. Claimant was not available at the number registered at the time of hearing and another default decision was entered. The EAB again remanded for a new hearing.

A telephone hearing was held on August 27, 2021. The parties were properly notified of the hearing. The claimant participated personally. Mercy Health Services-Iowa Corp (employer/respondent) participated by HR Director Angela Faver and Director of Perioperative Services Hannah Porcic. Official notice was taken of the administrative record.

**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's first day of employment was January 6, 2020. Claimant was employed as a full-time OR Secretary. Claimant's immediate supervisor was Erica Ludwig. The last day claimant was present at the job performing work was March 25, 2020. Claimant was laid off at that time due to the pandemic.

Claimant was recalled to work on May 1, 2020 and set to return on May 11, 2020. Shortly before the return date claimant's mother was injured. This necessitated claimant traveling out of state to care for her. Claimant reported this to employer and requested time off for this reason.

Employer declined to allow claimant any time off and informed her she must either return or resign. Claimant declined to do either. Claimant was out of the state and/or caring for her mother for the majority of the week ending May 16, 2020. Claimant was able and available for work and searching for work effective with the week ending March 23, 2020. She secured work elsewhere on or about June 1, 2020.

The issue of claimant's separation from employment has not yet been the subject of a fact-finding interview and decision.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the October 22, 2020 (reference 03) unemployment insurance decision that denied benefits from May 10 through May 30, 2020 based on a finding claimant was unable to work for personal reasons is MODIFIED in favor of appellant. Claimant is eligible as set forth below.

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".

The administrative law judge finds claimant is not eligible for benefits in the week ending May 16, 2020, as she was unavailable for work due to caring for her mother in that week. She is otherwise able and available for work and eligible for benefits in the weeks filed, provided she is not otherwise ineligible or disqualified.

**DECISION:**

The October 22, 2020 (reference 03) unemployment insurance decision that denied benefits from May 10 through May 30, 2020 based on a finding claimant was unable to work for personal reasons is MODIFIED in favor of appellant. Claimant is eligible as set forth above.

**REMAND:**

This matter is REMANDED to the Department for a fact-finding interview and decision on the issue of claimant's separation from employer.



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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

September 01, 2021  
Decision Dated and Mailed

abd/ol

***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>.