

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRITTANY S PRICHARD
Claimant

APPEAL 20A-UI-04786-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OPPORTUNITIES UNLIMITED
Employer

OC: 03/29/20
Claimant: Appellant (1R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Brittany S. Prichard, filed an appeal from the May 28, 2020, (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits effective March 29, 2020. The parties were properly notified about the hearing. A telephone hearing was held on June 17, 2020. The claimant participated personally. The employer, Opportunities Unlimited, participated through Thomas Kuiper, hearing representative. Angela Holdsworth, HR Director, testified.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to work and available for work effective March 29, 2020?
Is the claimant overpaid benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began employment in May 2019 as a full-time direct support professional. She earns \$12.00 per hour plus a \$1.00 shift differential at times. She has three children, ages 12 and under in her home, and no other adult at home to care for the children.

She established a claim for unemployment insurance benefits with an effective date of March 29, 2020 in response to childcare issues. A family member watches the claimant's children usually while she works, but this family member also cares for her elderly parents who live with her. For a period of time, the claimant's childcare provider was uncomfortable watching the claimant's children due to COVID-19. The claimant tried to have her 12 year old watch the younger children, but was not comfortable. She voluntarily moved to an on call position only.

She stated that starting June 22, 2020, her childcare provider has agreed to watch the children again so she can resume working.

Since the claimant opened her claims for benefits, she has made weekly continued claims each week. For the week of March 29-April 4, 2020, the claimant reported she earned \$208.00 in wages for the week, representing 16 hours of work that week. The employer reported the claimant worked 32.25 hours of work and had 8 hours of PTO. For the week of April 5-11, 2020, the claimant reported \$208.00 in wages, for 16 hours of work. The employer reported the claimant worked 25 hours that week. The claimant worked only ½ hour for a mandatory meeting between April 11 and the June 17, 2020 hearing date.

Despite being denied benefits after the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, claimant filed for and received a total of \$3,178.00 in unemployment insurance benefits for the weeks between March 29, 2020 and May 23, 2020.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$4,800.00 in federal benefits for the eight-week period ending May 23, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work due to a lack of childcare.

For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The claimant has the burden to show he is able to work, available for work, and earnestly and actively seeking work. The unemployment insurance rules require that an individual be physically and mentally able to work in some full time gainful employment, not necessarily in the individual's customary occupation, but a job which is engaged in by others as a means of livelihood. 871 IAC 24.22(1).

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

In this case, the evidence fails to establish the claimant is able to and available for work as defined by the unemployment insurance law. The claimant has not worked full-time hours, which were available for her, because she has not had childcare available. The administrative law judge is sympathetic to the claimant, but concludes that she does not meet the eligibility requirements. Benefits are denied.

The claimant's unrecorded wages in conjunction with her weekly continued claims for the two-week period ending April 11, 2020 are also remanded to the Benefits Bureau for an adjustment on weekly reported wages and possible overpayment.

As claimant has received benefits to which she was not entitled, the next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$3,178.00 in unemployment insurance benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). In addition to the regular UI benefits claimant received, she also received an additional \$4,800.00 in FPUC benefits for the eight- week period ending May 23, 2020. Claimant may be required to repay those benefits.

While the claimant may not be eligible for regular State of Iowa unemployment insurance benefits, she may be eligible for unemployment insurance benefits that have been made available to claimants under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"). The Pandemic Unemployment Assistance ("PUA") section of the Cares Act discusses eligibility for claimants who are unemployed due to the Coronavirus. For claimants who are ineligible for regular unemployment insurance benefits under Iowa Code Chapter 96, they may be eligible under PUA.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The unemployment insurance decision dated May 28, 2020, (reference 01) is affirmed. The claimant is not able and available for work effective March 29, 2020 due to a lack of childcare. Benefits are denied. The claimant has been overpaid \$3,178.00 in regular unemployment insurance benefits. The claimant has also been overpaid \$4,800.00 in Federal Pandemic Unemployment Compensation. These overpayments are subject to recovery.

REMAND: The claimant's unrecorded wages in conjunction with her weekly continued claims for the two-week period ending April 11, 2020 are also remanded to the Benefits Bureau for an adjustment on weekly reported wages and possible overpayment.



Jennifer L. Beckman
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June 29, 2020
Decision Dated and Mailed

jlb/scn