

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DANIAL J KILKER**  
Claimant

**FISHER CONTROLS INTERNATIONAL LLC**  
Employer

**APPEAL 20A-UI-05957-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

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

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the June 3, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on July 17, 2020, at 11:00 a.m. Claimant participated. Employer did not participate. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant is able to and available for work.  
Whether claimant was overpaid benefits.  
Whether claimant is eligible for Federal Pandemic Unemployment Compensation.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed as a full-time Assembler with Fisher Controls International since February 20, 2006. Claimant worked reduced hours from March 29, 2020 through May 15, 2020 because he lacked childcare as a result of Covid-19. Claimant filed an initial claim for benefits effective March 29, 2020. Other than the lack of childcare, claimant has been able to and available for work since March 29, 2020.

The administrative record reflects that claimant filed for and received unemployment insurance benefits for six weeks before Iowa Workforce Development issued a decision denying his regular, state-funded unemployment benefits. Claimant is approved for Pandemic Unemployment Assistance (PUA), effective March 29, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is not available for work. Regular unemployment insurance benefits are denied.

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. 871-24.22(2) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) *Available for work.* The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(8) provides:

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

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

Claimant did not have child care, which claimant needed in order to work. Therefore, claimant was not available for work. Regular unemployment insurance benefits are denied effective March 29, 2020.

The issue of overpayment will not be decided at this time because claimant has been approved for PUA effective March 29, 2020 and those PUA benefits may cover the regular unemployment benefits claimant has received so far.

**DECISION:**

The June 3, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant was not available for work due to lack of childcare. Regular unemployment insurance benefits are denied. No decision is issued on the issue of overpayment at that this time.



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

July 24, 2020  
Decision Dated and Mailed

acw/scn

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for REGULAR unemployment insurance benefits under state law. 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 under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **If you have applied and have been approved for PUA benefits, this decision will NOT negatively affect your entitlement to PUA benefits.**