

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SYDNEY M BORN SHEUER**  
Claimant

**WALMART INC**  
Employer

**APPEAL 20A-UI-03680-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) Leave of Absence

**STATEMENT OF THE CASE:**

On May 4, 2020, the claimant filed an appeal from the April 30, 2020, (reference 01) unemployment insurance decision that denied benefits based on the claimant being on an approved leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on May 20, 2020. Claimant, Sydney M. Bornsheuer, participated personally. The employer, Walmart Inc., did not participate. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**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 has worked for employer since October 16, 2018. She works for the employer as a part-time sales check out host. Claimant's supervisor is Christine Shroom.

Claimant attends Simpson College in Indianola, Iowa. She resides in a college sorority house. When the claimant's college is not in session, she takes leaves of absences from the employer. She requested a leave of absence from the employer for her college spring break, which was approved by the employer.

Claimant's college and sorority house closed due to the COVID 19 pandemic and claimant no longer had a place to live near this employer. Claimant moved back to Burlington, Iowa, which is approximately three hours driving distance from this employer. Claimant requested an additional leave of absence from the employer, which was granted. Claimant intends to return to the employer once the COVID 19 pandemic is over and her sorority housing opens again.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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", subparagraph (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.

The claimant informed the employer that she was unable to work due to not having her normal housing available in the town the employer is located in. The employer agreed to allow claimant time off for that reason. Because the claimant is on a voluntary leave of absence, she has not established that she is available for work with this employer, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. See also Iowa Admin. Code r. 871-24.23(10). Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits due to her voluntary leave of absence.

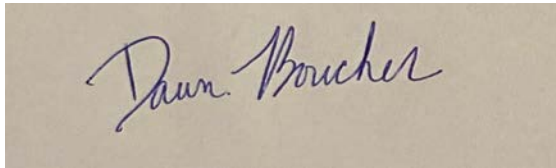
Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the Cares Act creates a new temporary federal program called Pandemic Unemployment Assistance ("PUA") that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the additional \$600.00 weekly benefit amount ("WBA") under the Federal Pandemic Unemployment Compensation ("FPUC") program if he or she is eligible for such compensation for the week claimed. Claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

**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 ("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 April 30, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work effective March 15, 2020 due to her approved leave of absence. Unemployment insurance benefits funded by the State of Iowa are denied until such time claimant is able to and available for work, and provided she is otherwise eligible.



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Dawn Boucher  
Administrative Law Judge

May 22, 2020  
Decision Dated and Mailed

db/scn