

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHELLE L ANDERSON
Claimant

HY VEE INC
Employer

APPEAL 21A-UI-06606-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/03/21
Claimant: Appellant (4R)

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

STATEMENT OF THE CASE:

On February 23, 2021, Michelle Anderson (claimant/appellant) filed an appeal from the February 22, 2021 (reference 01) unemployment insurance decision that denied benefits as of January 3, 2021 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on May 10, 2021. The parties were properly notified of the hearing. The claimant participated personally. Hy-Vee Inc (employer/respondent) participated by HR Manager Brandy Kading and was represented by Hearing Rep. Barbara Buss.

Official notice was taken of the administrative record.

ISSUES:

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's first day of employment was April 22, 2020. Claimant was employed as a full-time production worker. The last day claimant worked on the job was December 9, 2020. Claimant separated from employment on February 3, 2021.

Claimant was unable to work due to illness from the benefit week ending January 9, 2021 through the benefit week ending January 30, 2021. Her doctor released her to return to work at the beginning of February 2021 and she felt well enough to work from that time until early-April 2021, when she again fell ill and did not recover enough to return to work until the beginning of May 2021.

Claimant filed a claim for benefits each week from the benefit week ending January 9, 2021 through the benefit week ending April 24, 2021. Claimant subsequently applied for and was

granted federal Pandemic Unemployment Assistance for the benefit weeks ending January 9 and 16, 2021.

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 February 22, 2021 (reference 01) unemployment insurance decision that denied benefits as of January 3, 2021 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant.

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 did not request a leave of absence. However, claimant was unable to work due to illness from the benefit week ending January 9, 2021 through the benefit week ending January 30, 2021. She is therefore ineligible for benefits during this time.

Her doctor released her to return to work at the beginning of February 2021 and she felt well enough to work from that time until early-April 2021. She is therefore eligible from the benefit week ending February 6, 2021 through the benefit week ending April 3, 2021, provided she otherwise meets all eligibility requirements.

Claimant again fell ill in early-April 2021 and did not recover enough to return to work until the beginning of May 2021. Claimant is therefore ineligible for benefits from the benefit week ending April 10, 2021 through the benefit week ending May 1, 2021.

Claimant subsequently applied for and was granted federal Pandemic Unemployment Assistance (PUA) for the benefit weeks ending January 9 and 16, 2021. The administrative law judge notes this decision does not impact claimant's eligibility for PUA during that period. He also notes that the evidence indicates claimant may be eligible for PUA during other periods as well. Further information on PUA, including how to apply, is set forth below.

Because this decision determines claimant is eligible for benefits in part, the issue of claimant's separation from employment must be addressed as well. That issue is remanded to the department.

DECISION:

The February 22, 2021 (reference 01) unemployment insurance decision that denied benefits as of January 3, 2021 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant. Claimant is eligible for benefits from the benefit week ending February 6, 2021 through the benefit week ending April 3, 2021, provided she otherwise meets all eligibility requirements. She was unable to work and therefore ineligible for benefits during the other weeks filed.

REMAND:

The issue of claimant's separation from employment is REMANDED to the department for a fact-finding interview and decision.



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

May 17, 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>.