

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**YANISLEIDY GONZALEZ GARCES**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL 20A-UI-06185-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**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 June 17, 2020, the claimant filed an appeal from the June 12, 2020 (reference 01) unemployment insurance decision that denied benefits to the claimant based on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on July 17, 2020. Claimant participated personally. Ernesto Molina participated as a witness for the claimant. CTS Language Link provided language interpretation services to the claimant and her witnesses. The employer, Tyson Fresh Meats 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 May 5, 2014. She works full-time as a production worker. She is still considered employed by the employer.

When the COVID 19 pandemic occurred, the school that claimant's minor child attended closed. Claimant also lost her child care provider for her other minor child due to the COVID 19 pandemic. Claimant requested a leave of absence from work and it was granted. She has not physically worked on the job since April 6, 2020 due to lack of childcare.

**REASONING AND CONCLUSIONS OF LAW:**

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:

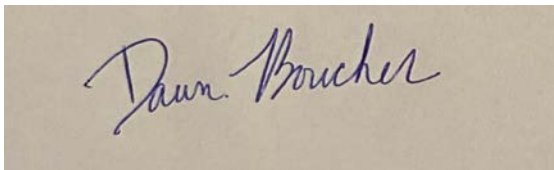
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

In this case, the claimant notified the employer that she could not work and she was granted a leave of absence. As such, the period of time she is not working is deemed to be a period of voluntary unemployment. Claimant has not established that she is able to and available for work pursuant to Iowa Code § 96.4(3). Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits. Regular unemployment insurance benefits funded by the State of Iowa are denied effective April 5, 2020.

**DECISION:**

The June 12, 2020 (reference 01) unemployment insurance decision is affirmed. The claimant is on a voluntary leave of absence and is not able to work and available for work effective April 5, 2020. Unemployment insurance benefits funded by the State of Iowa are denied until such time as the claimant is able to and available for work.



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Dawn Boucher  
Administrative Law Judge

July 24, 2020  
Decision Dated and Mailed

db/scn

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.