

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**SHIANNE STREETER**  
Claimant

**WESLEYLIFE**  
Employer

**APPEAL 20A-UI-13669-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/03/20**  
**Claimant: Appellant (1R)**

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

**STATEMENT OF THE CASE:**

Claimant/ Appellant filed an appeal from a decision of a representative dated October 29, 2020 that held claimant was not able to and available for work. After due notice, a hearing was scheduled for and held on December 30, 2020. Claimant participated personally. Employer participated by Equifax hearing representative Ted Valencia and Director of People Amy Knight. No exhibits were admitted.

**ISSUES:**

The issue in this matter is whether claimant is able and available for work?  
Was 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: The claimant, Shianne Streeter, began employment on May 22, 2019 as a part time home health care aid. Claimant's hours varied. Lisa Porter was claimant's immediate supervisor. On April 29, 2020, claimant had to leave work due to experiencing Covid-19 type symptoms. Claimant's supervisor agreed that claimant should stay home until May 15, 2020. Claimant returned to work on May 15, 2020. Claimant was not paid during the April 29, 2020 to May 15, 2020 time period.

There has been no initial investigation and determination regarding claimant's separation from this employer. The issue regarding whether claimant's separation from employment from this employer is disqualifying will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination with notice to both parties.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work for the period of April 29, 2020 until May 15, 2020.

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 Code section 96.19(38) provides:

“Total and partial unemployment”.

- a. An individual shall be deemed “totally unemployed” in any week with respect to which no wages are payable to the individual and during which the individual performs no services.
- b. An individual shall be deemed partially unemployed in any week in which either of the following apply:
  - (1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.
  - (2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.
- c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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, claimant had to leave work on April 29, 2020 due to experiencing Covid-19 symptoms. Claimant's employer agreed to allow claimant this time away from work. Claimant returned to work on May 15, 2020. Because claimant was experiencing Covid-19 symptoms, claimant was not considered able and available to work under Iowa law for that period. Accordingly, claimant was not otherwise able to and available for work under state law from April 29, 2020 until May 15, 2020.

An individual claiming benefits has the burden of proof that she is able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

Claimant needed to stay home due to experiencing Covid-19 symptoms from April 29, 2020 until May 15, 2020. Claimant was not able to return to work until May 15, 2020. Accordingly, she is not eligible for regular state unemployment insurance benefits for that period.

**Note to Claimant:** If this decision determines you are not eligible for regular unemployment insurance benefits and 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>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.

**DECISION:**

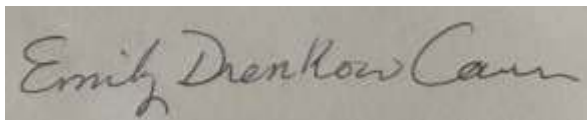
*Regular Unemployment Insurance Benefits Under State Law*

The October 29, 2020 reference 01, unemployment insurance decision is affirmed. The claimant was not available for work from April 29, 2020 until May 15, 2020. Therefore benefits are denied from April 29, 2020 until May 15, 2020.

**REMAND:** The issue of the reason for the separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

*Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act*

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. 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 \$600 weekly benefit amount in FPUC. This decision does not address whether the claimant is eligible for PUA. For a decision on such eligibility, the claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant".



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Emily Drenkow Carr  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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Des Moines, Iowa 50319-0209  
Fax (515)478-3528

January 19, 2021  
Decision Dated and Mailed

ed/scn