

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**MICHELLE M JUNGJOHANN**  
Claimant

**APPEAL NO. 21A-UI-01832-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 03/29/20**  
**Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38) – Temporary and Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant, Michelle Jungjohann, filed a timely appeal from the December 17, 2020, reference 01, decision that denied benefits for the period beginning October 18, 2020, based on the deputy's conclusion that the claimant was still employed for the same hour and wages as in her original contract of hire and could not be considered partially unemployed. After due notice was issued, a hearing was held on February 24, 2021. Claimant participated. Alyce Smolsky of Equifax represented the employer and presented testimony through Nick Jedlicka. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

**ISSUES:**

Whether the claimant was able to work and available for work during the two-week period of October 18 2020 through October 31, 2020.

Whether the claimant was partially and/or temporarily unemployed during the two-week period of October 18 2020 through October 31, 2020.

Whether the employer's account may be charged for benefits during the two-week period of October 18 2020 through October 31, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Michelle Jungjohann, is employed by Care Initiatives as the full-time Business Office Manager at Heritage Specialty Care in Cedar Rapids. The claimant's regular work hours are 7:00 a.m. to 5:00 p.m., Monday through Friday. Nick Jedlicka, Administrator, is the claimant's immediate supervisor. On Friday, October 9, 2020, the claimant began an approved vacation that was to last through the week that ended October 17, 2020. The claimant requested the period of vacation so that she could accompany her adult daughter to Mexico, where her daughter would be undergoing a surgical procedure. At the time the employer approved the claimant's vacation request, the employer reminded the claimant that she would be required to quarantine for 14 days upon her return home before she would be allowed to return to the employment. A corporate human resources representative had previously provided similar

information to the claimant upon learning of the claimant's travel plans. The employer based this 14-day quarantine requirement on Centers for Disease Control guidelines for preventing community spread of COVID-19. The claimant had not requested additional time off beyond her approved vacation period. The employer encouraged the claimant to apply for unemployment insurance benefits for the required quarantine period.

The claimant's return to Iowa from Mexico was delayed two days, to Monday, October 19, 2020, due to complications with her daughter's medical procedure. The claimant was in good health when she returned home and continued thereafter to be ready, willing and able to return to work. The claimant's adult daughter does not reside with the claimant. In light of the employer's requirement that she remain off work for two weeks upon her return home, the claimant spent Tuesday, October 20, 2020, assisting her daughter as her daughter recovered from her surgery. The claimant's daughter's husband was available to care for the claimant's daughter and would have done so if the claimant had returned to work immediately upon her return home. The claimant's daughter was unwell on October 20, 2020 and turned out to be infected with COVID-19. Pursuant to the employer's policy, the claimant notified the employer of this exposure. The employer extended the claimant's time off from work to 14 days following her exposure to her daughter's illness. During this time, the claimant reported to the workplace five times to undergo rapid COVID-19 testing and in each instance tested negative. The claimant returned to work on the morning of Wednesday, November 4, 2020, the earliest time the employer would allow her to return.

The claimant established an "additional claim" for benefits that was effective October 18, 2020. This employer is the sole base period employer. The claimant's weekly benefit amount was set at \$481.00. The claimant made weekly claims for the weeks that ended October 24 and October 31, 2020. The claimant discontinued her claim for benefits following the week that ended October 31, 2020. The claimant did not receive compensation from the employer for the weeks that ended October 24 and 31, 2020.

## **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", 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:

Benefits 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(10) and (25) 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.

...

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

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.

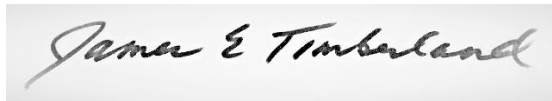
If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period,

benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

The claimant was able to work, available for work, but temporarily laid off during the two-week period of October 18, 2020 through October 31, 2020. From October 19, 2020 through October 31, 2020, the claimant was physically and mentally able for work and was available to perform work for the employer. The employer had a reasonable policy that prevented the claimant from returning to work until 14 days after her travel and 14 days after her exposure to COVID-19. However, this time off was nonetheless involuntary on the part of the claimant, who remained available to perform work for the employer. The claimant is eligible for benefits for the weeks that ended October 18 and October 31, 2020, provided she is otherwise eligible. The employer account may be charged for the benefits paid to the claimant for those two weeks.

**DECISION:**

The December 17, 2020, reference 01, decision is reversed. The claimant was able to work, available for work, but temporarily laid off during the two-week period of October 18, 2020 through October 31, 2020. The claimant is eligible for benefits for those two weeks, provided she is otherwise eligible. The employer's account may be charged for the benefits paid to the claimant for those two weeks.



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James E. Timberland  
Administrative Law Judge

March 9, 2021  
Decision Dated and Mailed

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