

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TYRISHA M FARMER
Claimant

CARE INITIATIVES
Employer

APPEAL 21A-UI-01186-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/28/20
Claimant: Respondent (2)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

On December 16, 2020, Care Initiatives (employer/appellant) filed an appeal from the December 10, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning September 27, 2020 based on a finding claimant was able and available for work.

A telephone hearing was held on February 16, 2021. The parties were properly notified of the hearing. Tyrisha Farmer (claimant/respondent) did not register a number for the hearing and so did not participate. Employer participated by Assistant Administrator Kayla Reyes. Employer was represented by Appellate Hearing Representative Jacqueline Jones.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was July 14, 2017. Claimant was employed part-time as a CNA. Claimant last performed work for employer on October 25, 2020.

Claimant called in to work on September 14, 2020 with COVID-like symptoms. Employer requires employees who report or display COVID-like symptoms to be off work for 10 days. Claimant returned to work on October 2, 2020, the next day for which she was scheduled following the 10-day period.

Claimant tested positive for COVID-19 on October 25, 2020 and so was again mandated to be off work for 10 days. Claimant did not return to work following that 10-day period. Employer attempted to call and text claimant but received no response. Claimant was aware that she could return to work following the 10-day period.

Employer is unsure if claimant was too ill to work during the periods she was held out of work. Claimant was not paid during the periods she was held out of work. There is no evidence available as to whether claimant was able to and available for work during the other weeks filed.

Claimant filed a claim for benefits in the weeks ending July 4 and 11, 2020, and from the week ending October 31, 2020 and continuing to present.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the December 10, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning September 27, 2020 based on a finding claimant was able and available for work is REVERSED.

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".

It is claimant's burden to establish that she is able to and available for work during each week she files for benefits. Claimant has not established that she was able to and available for work during each of the weeks filed. Claimant is therefore ineligible for benefits.

DECISION:

The December 10, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning September 27, 2020 based on a finding claimant was able and available for work is REVERSED. Claimant has not established that she eligible for benefits during the weeks filed. Benefits must be denied.



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

February 26, 2021
Decision Dated and Mailed

abd/scn

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>.