

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LEANN NUZUM**

Claimant

**APPEAL 21A-UI-09910-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KOHL'S DEPARTMENT STORES INC**

Employer

**OC: 03/29/20**

**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

On April 6, 2021, the claimant/appellant filed an appeal from the March 30, 2021, (reference 02) unemployment insurance decision that disallowed benefits based on claimant not being able to perform work due to illness. The parties were properly notified about the hearing. A telephone hearing was held on June 23, 2021. Claimant personally participated at the hearing. Employer did not register a number to participate in the hearing prior to the hearing and therefore did not participate in the hearing.

**ISSUE:**

Is the claimant able to work and available for work effective February 7, 2021?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works as a full-time visual coordinator Monday through Friday. On Wednesday, February 3, 2021, claimant went home after work and began feeling ill. Claimant had a temperature of 103 degrees and had other symptoms of COVID-19. On Thursday, February 4, 2021, claimant notified her employer that she was not feeling well and they directed her to go to a Test Iowa center to be tested for COVID-19. The employer requires their employees to go on quarantine if they have one symptom of COVID. On Friday, February 5, 2021, claimant tested positive for COVID-19. Claimant and her entire family contracted COVID-19 and claimant was very ill during her quarantine. Claimant also developed pneumonia as a result of her COVID-19 infection. On Monday, February 15, 2021, Claimant returned to work for her employer.

**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(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

The weight of the evidence establishes that the claimant was sick with COVID-19 and unable to work from February 4, 2021 through February 14, 2021. The claimant is not eligible for regular benefits for that period.

Even though claimant is not eligible for regular state unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. The claimant will need to file an application for Pandemic Unemployment Assistance (PUA) in order to be considered for those benefits. See below.

**DECISION:**

The March 30, 2021, reference 02, decision is affirmed. The claimant was ill and unavailable for work within the meaning of the law between February 4, 2021 and February 14, 2021. The claimant is not eligible for regular state benefits for that period.



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Carly Smith  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

July 6, 2021  
Decision Dated and Mailed

cs/kmj

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be 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.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. You may be eligible for benefits incurred prior to June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.