

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JANESSA A RAMIREZ
Claimant

DIVVYMED LLC
Employer

APPEAL 22A-UI-00334-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/18/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Claimant filed an appeal from the November 23, 2021 (reference 04) unemployment insurance decision that denied benefits effective October 31, 2021 finding claimant was on a leave of absence and, thus, not able to and available for work. The parties were properly notified of the hearing. A telephone hearing was held on January 25, 2022. Claimant participated. Employer did not participate. Claimant's Exhibit A was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is able to and available for work.
Whether claimant is on an approved leave of absence.

FINDINGS OF FACT:

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

Claimant is employed as a full-time Pharmacy Technician with Divvymed. Claimant works Monday through Friday from 8:00 a.m. until 4:30 p.m. On November 1, 2021, employer notified claimant that she had been exposed to someone who tested positive for Covid-19. Employer required claimant to quarantine for ten days. Claimant had no symptoms, tested negative for Covid-19 and requested to return to work or work remotely. Employer denied claimant's request and did not allow claimant to work from November 1, 2021 through November 12, 2021. Claimant had no barriers to employment during this period and received no compensation from employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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:

Benefit 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.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

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.

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 did not request a leave of absence. Claimant had no barriers to employment and would have worked if employer allowed her. Accordingly, claimant is eligible for unemployment insurance benefits.

DECISION:

The November 23, 2021 (reference 04) unemployment insurance decision is reversed. Claimant was able to and available for work. Benefits are allowed effective October 31, 2021 provided claimant is otherwise eligible.



Adrienne C. Williamson
Administrative Law Judge
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February 22, 2022
Decision Dated and Mailed

acw/ACW