

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARIE A MILLER
Claimant

TRANSWORLD SYSTEMS INC
Employer

APPEAL NO. 20A-UI-05976-B2T

**AMENDED
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/22/20
Claimant: Appellant (4R)**

Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 8, 2020 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on July 17, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant worked in collections for a third party collector aiding the Iowa Department of Revenue. Her last actual day of work was December 10, 2019. Claimant suffers anxiety and panic attacks and was struggling with these issues at the last day of her work. She was off from work on a medical leave for a number of months.

Claimant went to employer with a medical release allowing her return to work with no restrictions on April 6, 2020. At or shortly before this date, employer started allowing people to do their work from home.

When claimant explained to employer that she had a doctor's release with no restrictions that was to be valid on April 6, 2020, employer did not allow claimant to return to work. Claimant has remained able and available to work since the date of her release.

Claimant has received state unemployment benefits in this matter of \$1,660.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$5,400.00.

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(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Inasmuch as the illness was not directly work-related and the treating physician had not released claimant to return to work until April 6, 2020, the claimant has not established the ability to work between the date of her initial filing and April 6, 2020. Benefits are denied for that time period. As claimant was able and available to work on April 6, 2020, benefits shall be allowed effective April 6, 2020, so long as claimant is otherwise eligible.

Claimant has received state unemployment benefits in this matter of \$1,660.00. The \$332.00 in payments she received prior to April 6, 2020 are overpayments. This matter will be remanded back to the fact finder for a determination on the separation issue. The determination of that issue will determine whether the entirety of the benefits received are overpayments.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$5,400.00. The \$1,200.00 she received prior to April 6, 2020 are overpayments. This matter will be remanded back to the fact finder for a determination on the separation issue. The determination of that issue will determine whether the entirety of the benefits received are overpayments.

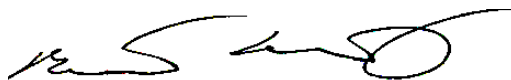
NOTE TO CLAIMANT: Although claimant in this matter is denied insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. **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>.

DECISION:

The decision of the representative dated June 8, 2020, reference 02 is amended in favor of the claimant. Whereas, claimant is not eligible to receive benefits between March 22, 2020 and April 5, 2020 as she is not able and available for work, claimant is deemed able and available to work after that period and is eligible for benefits, if she is otherwise eligible.

Claimant has received state unemployment benefits in this matter of \$1,660.00. The \$332.00 in payments she received prior to April 6, 2020 are overpayments. This matter will be remanded back to the fact finder for a determination on the separation issue. The determination of that issue will determine whether the entirety of the benefits received are overpayments.

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Blair A. Bennett
Administrative Law Judge

December 11, 2020
Decision Dated and Mailed

bab/scn