

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA T SOTO
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL 21A-UI-02001-S1-T

**AMENDED
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/29/20
Claimant: Respondent (2/R)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

Tyson Fresh Meats (employer) appealed a representative's December 18, 2020, decision (reference 01) that concluded Maria Soto (claimant) was eligible to receive unemployment insurance benefits as of October 11, 2020. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 25, 2021. The claimant participated personally through Interpreter Adrian. The employer participated by Kris Rossiter, Human Resources Employment Manager. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer since November 18, 1996. She is currently employed as a full-time production laborer.

The employer has a posted policy that states employees must quarantine for fourteen days after leaving the country. The policy is on a large poster in the breakroom and written in four languages, including Spanish. This policy was in effect in the fall of 2020. The policy was a reiteration of the Center for Disease Control (CDC) guideline. The claimant went to Mexico in October 2020. She returned and the employer required that she quarantine for the two weeks ending October 24, 2020.

The claimant filed for unemployment insurance benefits with an effective date of March 29, 2020. Her weekly benefit amount was determined to be \$481.00. The claimant received benefits of \$481.00 per week from April 5, 2020, to the week ending May 2, 2020, and from October 11, 2020, through October 24, 2020. This is a total of \$2,886.00 in state unemployment insurance benefits after March 29, 2020. She also received \$2,400.00 in Federal Pandemic Unemployment Compensation for the four-week period ending May 2, 2020.

REASONING AND CONCLUSIONS OF LAW:

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 claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When employees are unable to perform work due to a medical condition, they are considered to be unavailable for work. The claimant had been out of the country and the CDC guidelines recommended that she quarantine for fourteen days to prohibit the spread of Covid-19. To prevent the spread of a deadly virus, the employer removed and quarantined an employee from the workplace. She was not able and available for work during that period. The claimant is disqualified from receiving unemployment insurance benefits from October 11, 2020, through October 24, 2020.

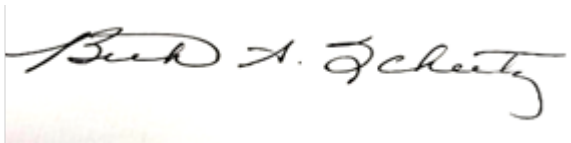
Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below.

DECISION:

The December 18, 2020, (reference 01) unemployment insurance decision is reversed. The claimant is not able to work and available for work from October 11, 2020, through October 24, 2020.

The issue of whether claimant has been overpaid unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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 currently 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>.



Beth A. Scheetz
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April 8, 2021
Decision Dated and Mailed

bas/scn