

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALICE M ZIMMERMAN
Claimant

HOPE HAVEN INC
Employer

APPEAL NO. 20A-UI-09066-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

The claimant, Alice Zimmerman, filed a timely appeal from the July 20, 2020, reference 01, decision that denied benefits effective April 19, 2020, based on the deputy's conclusion that the claimant was on a leave of absence that the claimant requested and the employer approved, was voluntarily unemployed and was unavailable for work. After due notice was issued, a hearing was held on September 16, 2020. Ms. Zimmerman was not available at the number she registered for the hearing and did not participate. Connie Pagel, Human Resources Manager, represented the employer. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work during the period of April 19, 2020 through June 13, 2020.

Whether the claimant was on a leave of absence from work during the period of April 19, 2020 through June 13, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Alice Zimmerman is employed by Hope Haven, Inc. as a full-time direct support professional. Her wage is \$12.79 per hour. On April 13, 2020, Ms. Zimmerman requested a leave of absence, based on underlying health issues and concern regarding community spread of COVID-19. Ms. Zimmerman provided medical documentation supporting her need to be off work. On April 15, 2020, the employer approved the leave request. The parties left the return to work date open. While Ms. Zimmerman was on her leave of absence, the employer continued to have the same full-time work available for her. The employer subsequently notified Ms. Zimmerman that she would need to return to work by June 1, 2020 in order to continue her full-time employee benefits. Ms. Zimmerman returned to the full-time employment on June 1, 2020.

Ms. Zimmerman established an original claim for benefits that was effective April 19, 2020. Ms. Zimmerman made weekly claims for the eight consecutive weeks between April 19, 2020 and July 13, 2020. Iowa Workforce Development set Ms. Zimmerman's weekly benefit amount at \$376.00. Ms. Zimmerman received regular state benefits and Federal Pandemic Unemployment Compensation (FPUC) for each of the six weeks between April 19, 2020 and May 30, 2020. Ms. Zimmerman's full-time wages for the weeks that ended June 6 and 13, 2020 exceeded her weekly benefit amount plus \$15.00. Ms. Zimmerman discontinued her claim following the week that ended June 13, 2020.

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, in relevant part, as follows:

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.

Iowa Admin. Code r. 871-24.23 provides, in relevant part, as follows:

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.

...

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The evidence indicates that Ms. Zimmerman was on a voluntary leave of absence at the time she established the claim for unemployment insurance benefits that was effective and through

the benefit week that ended May 30, 2020. Ms. Zimmerman was not available for work during that time, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Ms. Zimmerman was not eligible for benefits for the period of April 19, 2020 through May 30, 2020. Ms. Zimmerman was not unemployed during the weeks that ended June 6 and 13, 2020, did not meet the "availability" requirement during those weeks and is not eligible for benefits for those weeks.

Even though claimant is not eligible for regular 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. 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.

DECISION:

The July 20, 2020, reference 01, decision is affirmed. The claimant was not available for work within the meaning of the law during the period of April 19, 2020 through June 13, 2020 and is not eligible for regular, state-funded unemployment insurance benefits for that period.



James E. Timberland
Administrative Law Judge

September 22, 2020
Decision Dated and Mailed

jet/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you have received.**