

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSICA GARCIA
Claimant

**THOMAS L CARDELLA & ASSOCIATES
INC**
Employer

APPEAL 20A-UI-08466-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Appellant (3)

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence
Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work

STATEMENT OF THE CASE:

On July 18, 2020, Jessica Garcia (claimant/appellant) filed an appeal from the July 16, 2020 (reference 01) unemployment insurance decision that denied benefits as of April 19, 2020, based on a finding that claimant requested and was granted a leave of absence.

A telephone hearing was held on August 28, 2020. The parties were properly notified of the hearing. The claimant participated personally. Thomas L Cardella & Associates Inc (employer/respondent) registered a number for the hearing but was not available at the number at the time of hearing and did not participate.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

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

Claimant's first day of employment was September 16, 2019. Claimant's child's preschool closed March 15, 2020 due to the pandemic, and claimant was unable to find other childcare. She informed employer on April 3 that she could not find childcare and needed to stay home to care for her child. During the end of April, claimant and her child both experienced COVID-like symptoms and had to quarantine as well.

Claimant separated from employment on June 10, 2020. Employer terminated her employment at that time, as she could not return due to a lack of childcare. Claimant was able to secure childcare later in June but decided to stay home because she had been diagnosed with gestational diabetes and was at a higher risk due to that diagnosis and her pregnancy. Claimant is still unavailable for work at this time, as she is caring for a newborn child.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the July 16, 2020 (reference 01) unemployment insurance decision that denied benefits as of April 19, 2020 based on a finding that claimant requested and was granted a leave of absence is MODIFIED in favor of Respondent. Benefits are denied from the benefit week ending April 11, 2020, due to claimant being on a leave of absence and then unavailable for work.

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. 871-24.23(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.

Claimant essentially requested and was granted a leave of absence from April 3, 2020, due to a lack of childcare and the need to quarantine. This leave of absence ended June 10, 2020, when employer terminated the employment. Claimant was still unavailable for work after that time, as she decided to stay home because she had been diagnosed with gestational diabetes and was at a higher risk due to that diagnosis and her pregnancy. Claimant is still unavailable for work at this time, as she is caring for a newborn child.

Because claimant is unavailable for work beginning April 3, 2020 and continuing to present, she is not eligible for regular, state unemployment benefits during that time. Benefits must be denied.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

DECISION:

The July 16, 2020 (reference 01) unemployment insurance decision that denied benefits as of April 19, 2020 based on a finding that claimant requested and was granted a leave of absence is MODIFIED in favor of Respondent. Benefits are denied from the benefit week ending April 11, 2020, due to claimant being on a leave of absence and then unavailable for work.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

September 4, 2020
Decision Dated and Mailed

abd/sam

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.