

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**INEZ M GRISBY**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL 20A-UI-12974-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

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

**STATEMENT OF THE CASE:**

Inez M Grisby, the claimant/appellant, filed an appeal from the October 7, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 15, 2020. The claimant participated and testified. The employer participated through Lori Drenzo.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has worked for the employer for 25 years. The claimant works full-time as a production worker.

The claimant requested and the employer approved the claimant to be on leave of absence (LOA) beginning on April 6, 2020. The employer approved several extensions to the claimant's LOA. The claimant's LOA ended on May 5, 2020. While claimant was on LOA, two things happened: 1) the claimant was exposed to COVID-19, and 2) the employer temporarily shut down the plant where the claimant worked.

On April 21, based on advice from her medical provider the claimant began self-quarantining after being exposed to COVID-19. She informed the employer by faxing the doctor's note to the employer and calling in. In order to return to work, the employer required all employees who were exposed to COVID-19 to be tested for COVID-19 by the employer. The claimant was tested by the employer and tested negative.

On April 22, the employer temporarily shut down the plant where the claimant worked. The plant reopened on May 7. While the plant was temporarily closed, the employer paid all employees, including the claimant, for 36 hours of work and gave them a \$500.00 bonus. The

employer also gave any employee who returned to work on May 7 an additional \$30/day for any day they worked.

The claimant returned to work on May 7, 2020 and received pay for 36 hours of work and the \$500.00 bonus. The claimant also received the additional \$30/day.

The claimant was on sick leave from May 20 through June 1. The claimant returned to work on June 2.

The claimant filed her initial claim because at that time she wasn't working and she wasn't getting any money from the employer. The administrative record shows that the claimant received her unemployment insurance benefits (UI) in the amount of \$500.00 for the week ending April 25 and she received wages from the employer for the weeks ending May 2 and May 9.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work from April 19 through May 6 and again May 20 through June 1.

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

In this case, the claimant requested and was granted a LOA from April 6 through May 5. This is considered a period of voluntary and the claimant is not eligible for UI benefits during this time.

The claimant was also not able to and available for work from May 20 through June 1 because she was on sick leave. Benefits are denied for May 20 through June 1.

Regarding overpayment, Iowa Code §96.3(7) provides, in pertinent part:

*7. Recovery of overpayment of benefits.*

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Since the claimant has been found to be ineligible for regular UI benefits because she was on LOA from April 6 through May 5, the claimant was overpaid regular UI benefits in the amount of \$500.00.

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 October 7, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant was not able to and available for work from April 6 through May 5 because she was on LOA and from May 20 through June 1 because she was on sick leave. Regular UI benefits are denied. Claimant may be eligible for Pandemic Unemployment Assistance.

**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've received so far.**



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Daniel Zeno  
Administrative Law Judge

December 23, 2020  
Decision Dated and Mailed

dz/scn