

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHANE HOCHSTETLER
Claimant

CARE INITIATIVES
Employer

**APPEAL 21A-UI-13809-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/21/21
Claimant: Respondent (2)**

Iowa Code § 96.1A(37) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On June 11, 2021, Care Initiatives (employer/appellant) filed a timely appeal from the June 4, 2021 (reference 04) unemployment insurance decision that allowed benefits beginning March 21, 2021 based on a finding claimant was able and available for work during a short-term layoff.

A telephone hearing was held on August 12, 2021. The parties were properly notified of the hearing. Shane Hochstetler (claimant/respondent) did not register a number for the hearing or participate. Employer was represented by Hearing Rep. Alyce Smolsky. Regional Director Jay Jenison and Director of Nursing Stacey Harrymon participated as witnesses for employer.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge? Is the claimant an on-call worker?

FINDINGS OF FACT:

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

Claimant began working for employer on December 10, 2020. Claimant is not still employed by employer. Claimant was employed full-time as a CNA. The most recent date worked was June 3, 2021. Claimant separated from employment on June 4, 2021. Employer held claimant out of work for a majority of the weeks ending March 27 and April 3, 2021. Claimant was held out as a precaution due to potential COVID-19 exposure. Because claimant did not participate, it is

unclear whether he was otherwise able and available for work in those weeks. He was not paid during those weeks. Claimant did not file a weekly claim for benefits in those weeks. The only week in which claimant has filed a claim for benefits since the effective date of this claim is the week ending July 3, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the June 4, 2021 (reference 04) unemployment insurance decision that allowed benefits beginning March 21, 2021 based on a finding claimant was able and available for work during a short-term layoff is REVERSED.

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 Code section 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "*totally unemployed*" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

In order to be eligible for benefits in any given week, a claimant must file a weekly claim for benefits and establish that he is able and available for work that week. It is claimant's burden to establish he is able and available for work and therefore eligible for benefits in each week filed. Claimant has not met that burden. He is therefore ineligible for benefits in the week filed. He is not eligible in the weeks he was held out due to COVID-19 because he did not file a weekly claim for benefits in those weeks.

DECISION:

The June 4, 2021 (reference 04) unemployment insurance decision that allowed benefits beginning March 21, 2021 based on a finding claimant was able and available for work during a short-term layoff is REVERSED.



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

August 19, 2021
Decision Dated and Mailed

abd/lj

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>.

