

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**SHAMBRIA P CHILDRESS**

Claimant

**APPEAL 16A-UI-10590-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**OC: 09/04/16**

**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available

Iowa Admin. Code r. 871-24.22(2)j – Benefit Eligibility Conditions – Leave of Absence

Iowa Admin. Code r. 871-24.23(10) – Availability Disqualifications – Leave of Absence

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 21, 2016, (reference 02) unemployment insurance decision that denied benefits based upon the claimant currently being on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on October 12, 2016. The claimant participated personally. The employer participated through Lea Peters, human resources generalist. Claimant exhibits A through D were received into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant on an approved leave of absence?

Is the claimant able to work and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as an over-the-road truck driver. The claimant last performed work on August 6, 2016, and went on an approved leave of absence under FMLA effective August 12, 2016. The claimant is on FMLA due to pregnancy, and has doctor imposed restrictions to completing her job duties while pregnant (claimant exhibit C). The claimant is expected to have her baby around December 7, 2016.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is on a leave of absence and the claimant is not able to work and available for work.

Iowa Code § 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)(1), (2) provides:

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. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

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.

The issue in this case is whether the claimant was able to and available for work as defined by the unemployment insurance law. Under Iowa Code Section 96.4-3, claimants are required to be able to work and available for work. The Agency relied on 871 IAC 24.23(10) in denying benefits, which provided that a claimant who requested and was granted a leave of absence is considered voluntarily unemployed and unavailable for work. The claimant began a leave of absence (through FMLA) effective August 12, 2016. In this case, the claimant's treating physician has imposed restrictions to the claimant completing her job duties while pregnant, thereby triggering the claimant's leave of absence. Because the claimant is on an approved leave of absence due to a personal medical condition and unable to perform her job duties without restriction at this time, she does not meet the requirements to be eligible for unemployment insurance benefits at this time. Accordingly, benefits are denied.

**DECISION:**

The September 21, 2016, (reference 02) decision is affirmed. The claimant is not able to work and available for work effective September 4, 2016. Benefits are withheld until such time as the claimant makes herself available for work to the extent she was available during the base period history.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/rvs