

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JESSICA L HYBERGER**  
Claimant

**BIOLIFE PLASMA, LLC**  
Employer

**APPEAL 21A-UI-03621-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/20/20**  
**Claimant: Appellant (2R)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(26) – Availability Disqualifications Same Hours and Wages  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 15, 2021, (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant was still employed for the same hours and wages as in her original contract of hire. The parties were properly notified of the hearing. A telephone hearing was held on March 29, 2021. Claimant Jessica L. Hyberger did participate. Employer did not register for the hearing and did not participate. The administrative law judge took official notice of the administrative file.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Was the claimant able to and available for work effective September 20, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a medical support specialist at Biolife Plasma from August 28, 2019, until September 16, 2020, when she was discharged.

Claimant was discharged on September 16, 2020. Claimant filed her claim for benefits effective September 20, 2020, following the separation. She claimed benefits each week through February 6, 2020. Claimant did not earn or report any wages during any of these weeks. Since claimant's separation from employment, she has had no barriers to employment. Claimant has actively sought work each week that she filed a claim.

The claimant's permanent separation from employment will be remanded to the Benefits Bureau for an initial investigation and determination.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was totally unemployed, and she was able to and available for work. Benefits are allowed, provided she is otherwise eligible.

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 Code § 96.19(38) 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.

Under Iowa Employment Security Law, an individual must be unemployed to be eligible for benefits. Iowa Code § 96.19(38). Total and temporary unemployment occur when someone has received no wages and performed no services during any given week. *Id.* Temporary unemployment occurs when the employer does not have work available for a limited time. In

this case, the claimant was not separated from employment because the client lacked work; therefore, she was totally unemployed.

As claimant was totally unemployed, she needs to be able to work, available for work, and actively and earnestly seeking work. The administrative law judge further finds claimant was able to and available for work from the date of separation. She has been performing work searches as required. Claimant is therefore eligible for benefits from that date. However, the issue of claimant's separation from employment has not been the subject of a fact-finding decision. That issue must be resolved to determine whether claimant's separation from employment was disqualifying.

**DECISION:**

The January 15, 2021, (reference 01) unemployment insurance decision is reversed. The claimant is totally unemployed and able to work and available for work effective September 20, 2020. Benefits will be paid once the remanded issue is resolved, provided she is otherwise eligible.

**REMAND:**

The issue of separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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March 31, 2021  
Decision Dated and Mailed

sa/scn