

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH WALLACE
Claimant

HEALTHCARE RESOLUTIONS LLC
Employer

APPEAL 21A-UI-00356-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant/appellant, Sarah Wallace, filed an appeal from the November 25, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 5, 2021. The claimant participated. The employer, Healthcare Resolutions LLC., participated through Michelle Crippen, office manager. Liz Johnson, administrative law judge, attended as an observer.

The administrative law judge took official notice of the administrative records. 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.

ISSUE:

Is the claimant able to work and available for work effective March 29, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a medical staffing firm. Claimant worked as a CNA, generally full-time hours, though she had flexibility to pick the shifts that were available. Claimant last worked on March 27, 2020.

At the time, employer had twice had two scheduling issues which resulted in claimant’s scheduled shifts being cancelled on March 24 and 28, 2020. Claimant was upset with the employer and sent in a text message not to be sent anymore shifts, because it (the employer) was bullshit (Crippen testimony). Claimant was offered additional shifts. After days of not working, she was moved to the employer’s inactive status.

Claimant stated she discontinued working due to her vehicle having 280,000 miles and not being comfortable going to locations more than 30 miles away. Employer had shifts within a 30 mile radius. Claimant also said she was uncomfortable working because of possible exposure to COVID-19. Claimant feared she be exposed at work to COVID-19 and could infect her family. Claimant’s doctor did not advise claimant to discontinue working. Claimant also stated

she was considering leaving the healthcare field but has not secured employment since March 2020. Claimant did not raise any concerns of COVID-19 precautions with the employer before stopping work and did not request a leave of absence to preserve employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available 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 96.1A, subsection 38, paragraph "b", subparagraph (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(3), Iowa Admin. Code r. 871-24.23(16) and Iowa Admin. Code r. 871-24.23(18) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code section 96.4(3).

...

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

...

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

For an unemployed individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The evidence presented is the claimant restricted herself from employment after getting mad about two scheduling errors, and in light of transportation issues and fears of COVID-19 exposure. The claimant is not able to and available for work. Benefits are denied.

DECISION:

The unemployment insurance decision dated November 25, 2020, (reference 02) is affirmed. The claimant is not able and available for work effective March 29, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

February 19, 2021
Decision Dated and Mailed

jlb/scn

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits. 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 due to disqualifying separations 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.** More information about how to apply for PUA is available online at:

www.iowaworkforcedevelopment.gov/pua-information

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>