

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HIBA G ANGALO
Claimant

APPEAL NO. 20A-UI-08986-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHERAN SERVICES IN IOWA INC
Employer

OC: 04/26/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able & Available
Iowa Admin. Code r. 871-24.23 – Availability Disqualifications
Iowa Code § 96.4(3) – Employer Liability

STATEMENT OF THE CASE:

Hiba Angalo filed a timely appeal from the July 23, 2020, reference 02, decision that denied benefits effective April 26, 2020, based on the deputy's conclusion that Ms. Angalo was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on September 14, 2020. Ms. Angalo participated. Jose Saavedra represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether Ms. Angalo was able to work and available for work during the period of April 26, 2020 through July 25, 2020.

Whether Ms. Angalo was partially unemployed during the period of April 26, 2020 through July 25, 2020.

Whether the employer account of Lutheran Services in Iowa, Inc. may be charged for benefits paid to Ms. Angalo for the period of April 26, 2020 through July 25, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Hiba Angalo established an original claim for benefits that was effective April 26, 2020. Iowa Workforce Development set her weekly benefit amount for state benefits at \$428.00. Ms. Angalo made weekly claims for 13 consecutive weeks between April 26, 2020 through July 25, 2020. Iowa Workforce Development paid Ms. Angalo \$5,136.00 in regular benefits for the 12 weeks between April 26, 2020 and July 18, 2020. IWD also paid Ms. Angalo \$7,200.00 in Federal Pandemic Unemployment Compensation (FPUC) for the 12 weeks between April 26, 2020 and July 18, 2020. There are two base period employers: Lutheran Services in Iowa, Inc. (LSI) and Julien Unleashed Incorporated.

Ms. Angalo was employed by LSI from 2018 until June 17, 2020, when she voluntarily quit. In August 2019, Ms. Angalo began working as a part-time social worker in LSI's Unit 4 Behavioral

Health Intervention Services. Jose Saavedra, Program Supervisor, was Ms. Angalo's immediate supervisor. Ms. Angalo initially worked two to five hours per week. Her wage was \$13.25 per hour. The duties involved meeting with clients one-on-one at the client's home for an hour or two each week. The clients could range in age from three years old to teenage.

Effective January 17, 2020, Ms. Angalo transitioned from regular part-time employment to "occasional" status. Ms. Angalo requested the change in light of her increasing academic workload. Ms. Angalo has at all relevant times been a full-time student at the University of Northern Iowa. The occasional staff afforded Ms. Angalo greater flexibility in her work schedule work load.

When COVID-19 began an issue in March 2020, the employer encouraged employees who were uncomfortable with continuing to meet with clients in-person to perform their work duties from home via video-conferencing or telephone. Ms. Angalo told the employer that she suffered from asthma. Mr. Saavedra passed this information along to the employer's human resources personnel and encouraged Ms. Angalo to work from home. Ms. Angalo began meeting with her assigned clients in the amended manner. Ms. Angalo experienced an increase in appointments cancelled or curtailed by clients reluctant to participate in or focus on meetings by video-conference or phone call. While Ms. Angalo asserts she experienced a decrease in work hours, the employer continued to have the same amount of work available for Ms. Angalo. In April 2020, the employer had additional clients that the employer attempted to assign to Ms. Angalo's caseload. However, the employer has to assign the clients to other employees effective April 22, 2020, because the employer could not reach Ms. Angalo. Ms. Angalo had fallen out of contact with the employer. Though Ms. Angalo was a full-time student at UNI, she commenced traveling home to Des Moines more frequently and spending the majority of her time in Des Moines. Ms. Angalo managed to meet with a client on April 24, 2020.

The employer was next able to make additional contact with Ms. Angalo during the first week of May 2020. At that time, the employer discussed with Ms. Angalo that the employer had work available and discussed documentation that was overdue. On May 8, 2020, Ms. Angalo notified the employer via text message that she was moving back to Des Moines. Ms. Angalo desired to assist her family during the COVID-19 pandemic. On May 11, 2020, Ms. Angalo requested a leave of absence. Ms. Angalo advised that she would be away from the employment until June 15, 2020. The employer granted the request for the leave of absence. Ms. Angalo did not return to the employment. On June 17, 2020, Ms. Angalo notified the employer that she was resigning.

During the fourth quarter of 2019, Ms. Angalo has started part-time employment as a direct support professional at Julian Unleashed, Inc. Ms. Angalo separated from that employment effective April 19, 2020.

Ms. Angalo advises that she looked for a few jobs after separated from Julian Unleashed and LSI.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.22(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.

Iowa Admin. Code r. 871-24.23 provides, in relevant part, as follows:

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

5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

...

(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.

...

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

...

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

The weight of the evidence in the record establishes that Ms. Angalo was neither available for work within the meaning of the law nor partially unemployed within the meaning of the law during the period of April 26, 2020 through July 25, 2020. LSI continued to have the same work available for Ms. Angalo from April 26, 2020 until June 17, 2020, when Ms. Angalo voluntarily quit. Ms. Angalo was attached to the job until she voluntarily quit on June 17, 2020, but elected not to make herself available for available work during the period of April 26, 2020 through June 17, 2020. Ms. Angalo initially elected instead to spend most of her time in Des Moines with her family and then elected to spend all of her time in Des Moines with her family. During the period of May 11, 2020 through June 15, 2020, Ms. Angalo was on a leave of absence that she requested and the employer approved. The weight of the evidence establishes that Ms. Angalo continued not to be available for work within the meaning of the law subsequent to her separation from this employer and through the benefit week that ended July 25, 2020. Ms. Angalo is not eligible for regular state-funded benefits for the period of April 26, 2020 through July 25, 2020.

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 July 23, 2020, reference 02, decision is affirmed. The claimant was not available for work and was not partially unemployed during the period of April 26, 2020 through July 25, 2020. Accordingly, the claimant is not eligible for regular, state-funded unemployment insurance benefits for the period of April 26, 2020 through July 25, 2020.



James E. Timberland
Administrative Law Judge

September 17, 2020
Decision Dated and Mailed

jet/sam

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 will be required to repay the benefits you've received so far.**