

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BRIAN D MITTERER**  
Claimant

**ABCM CORPORATION**  
Employer

**APPEAL 21A-UI-08432-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/24/21  
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

**STATEMENT OF THE CASE:**

Brian D Mitterer, the claimant/appellant, filed an appeal from the March 23, 2021, (reference 02) unemployment insurance decision that denied benefits as of January 24, 2021. The parties were properly notified about the hearing. A telephone hearing was held on June 8, 2021. Mr. Mitterer participated and testified. The employer participated through Jenny Borcharding, accounts receivable manager. Claimant's Exhibits A and B were admitted into evidence.

**ISSUES:**

Is Mr. Mitterer able to and available for work?  
Is Mr. Mitterer on a leave of absence?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Mitterer began working for the employer in February 2017. He works as a full-time bill specialist.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. The employer required employees to follow Centers for Disease Control and Prevention (CDC) guidelines they tested positive for COVID-19 or they were exposed to someone who tested positive for COVID-19.

On January 21, 2021 Mr. Mitterer's wife tested positive for COVID-19. Mr. Mitterer's wife's doctor advised her, Mr. Mitterer and their child to self-quarantine for 14 days. Mr. Mitterer began self-quarantine on January 21. On January 25, Mr. Mitterer tested positive for COVID-19. His doctor advised him to self-quarantine until February 2. Mr. Mitterer did so. Mr. Mitterer returned to work on February 3.

The employer did not pay Mr. Mitterer from January 21 through January 24. The employer paid Mr. Mitterer sick leave January 25 through February 2.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Mr. Mitterer is not able to and available for work from the effective date of the claim.

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. 871-24.23(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.

Here, Mr. Mitterer was on a leave of absence due to testing positive for COVID-19. Mr. Mitterer has not established that he is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, Mr. Mitterer is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim.

Even though Mr. Mitterer is not eligible for regular unemployment insurance benefits under state law, he 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 up to 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 March 23, 2021, (reference 02) unemployment insurance decision is affirmed. Mr. Mitterer is not able to and available for work effective January 24, 2021. Regular, state-funded unemployment insurance benefits are denied. Mr. Mitterer may be eligible for Pandemic Unemployment Assistance.



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

June 21, 2021  
Decision Dated and Mailed

dz/ol

**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 you were or you are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits 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 may be required to repay the benefits you've received so far.**
- Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **You can still apply for PUA benefits at the link above BUT you have to apply by June 12, 2021.**