

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AYEWA F MAGNON

Claimant

APPEAL 20A-UI-06566-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFF MANAGEMENT SOLUTIONS LLC

Employer

OC: 04/12/20

Claimant: Appellant (1)

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.3-7 – Overpayment
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Ayewa Magnon (claimant) appealed a representative's June 15, 2020, decision (reference 01) that denied benefits based on her continued employment with Staff Management Solutions (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 24, 2020. The claimant participated personally through Interpreter Monee. The claimant's brother observed the hearing. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant waived notice of the issue of whether the claimant was overpaid benefits and whether the claimant is eligible for Federal Pandemic Unemployment Compensation. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is available for work, whether the claimant was overpaid benefits, and whether the claimant is eligible for Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in 2018. The employer is a temporary agency. She was assigned to work at Proctor and Gamble as a packager. The claimant stopped working after April 3, 2020. Her daycare provider stopped offering services due to the pandemic. The claimant started taking care of her children.

The claimant filed for unemployment insurance benefits with an effective date of April 12, 2020. Her weekly benefit amount was determined to be \$145.00. The claimant received benefits of \$145.00 per week from April 12, 2020, to the week ending June 6, 2020. This is a total of

\$1,160.00 in state unemployment insurance benefits after the separation from employment. She also received \$4,800.00 in Federal Pandemic Unemployment Compensation for the six-week period ending June 6, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

Iowa Admin. Code r. 871-24.23(8) provides:

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

- (8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When an employee is spending working hours caring for children, she is considered to be unavailable for work. The claimant told the employer she needed time off to take care of her children due to Covid-19. She is devoting her time and efforts to caring for her children. The claimant is considered to be unavailable for work.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she 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. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

The next issue is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The claimant received \$1,160.00 in state unemployment insurance benefits. This was during the period of time the claimant has been determined to be ineligible to receive benefits. This decision denies benefits. If this decision becomes final or if the claimant is not eligible for PUA, the claimant will have an overpayment of benefits.

The final issue is whether the claimant is eligible for or overpaid Federal Pandemic Unemployment Compensation.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.-- In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

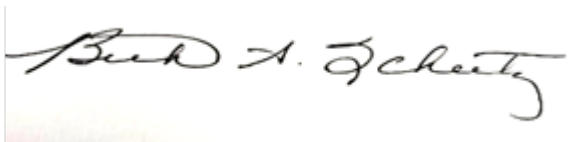
The claimant has been disqualified from receiving regular unemployment insurance benefits. The claimant has received \$4,800.00 in Federal Pandemic Unemployment Compensation. If this decision becomes final or if the claimant is not eligible for PUA, the claimant will have an overpayment of benefits.

DECISION:

The June 15, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective April 12, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time as the claimant is able to and available for work.

The claimant has received \$1,160.00 in state unemployment insurance benefits and \$4,800.00 in Federal Pandemic Unemployment Compensation. This decision denies benefits. If this decision becomes final or if the claimant is not eligible for PUA, the claimant will have an overpayment of benefits.

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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

July 31, 2020
Decision Dated and Mailed

bas/scn