

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

YASIR I ABBASHAR
Claimant

REACH FOR YOUR POTENTIAL INC
Employer

APPEAL NO. 20A-UI-09225-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/03/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 22, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on October 15, 2020. Claimant participated personally and with witness Mohamed Ibrahim. Employer participated by Bobbi Chipman. Claimant's Exhibits A-B were admitted into evidence.

ISSUES:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant currently works as a full time direct care provider for employer.

On May 6, 2020 claimant asked for and received a leave of absence through FMLA as a result of his and his mother's high risk factors should they contract Covid. Claimant stayed off from work until August 5, 2020 when his FMLA had run out. Claimant is now back working.

Employer stated that claimant is not eligible for PUA benefits as claimant is considered an essential worker.

REASONING AND CONCLUSIONS OF LAW:

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.

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:

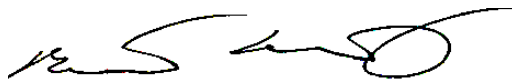
3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (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".

Whereas the claimant asked for and received a leave of absence from the period between May 6 and August 5, 2020 claimant has not established the ability to work for that period. Benefits are withheld during the aforementioned period.

Note to Claimant. Even though claimant 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. **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>.

DECISION:

The decision of the representative dated July 22, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits while on a leave of absence from May 6-August 5, 2020.



Blair A. Bennett
Administrative Law Judge

October 15, 2020
Decision Dated and Mailed

bab/scn

