

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LANCE T SCHAEFER
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL NO. 20A-UI-04394-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 15, 2020 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 8, 2020. Claimant participated personally.

ISSUES:

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive 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: Claimant has worked part time at Brownell's since October of 2017. The 16 hours a week he works in in addition to his self employment as a home flipper.

Claimant has no current houses he is flipping. He stated that the pandemic has removed his ability to see houses.

Claimant did not work at his part time job from April 3, 2020 to May 16, 2020. Claimant stated provided documentation from a doctor who'd conducted a telephone assessment on April 3, 2020. Claimant was not able to return to work at that time, and did not receive a release to return to work from the same doctor until May 16, 2020. After claimant secured his release, Brownell's allowed claimant to return.

From the benefit week ending April 4, 2020 to the benefit week ending May 16, 2020 claimant received \$1,140.00 in state benefits.

From the benefit week ending April 11, 2020 to the benefit week ending May 16, 2020 claimant received \$4,200.00 in federal FPUC benefits.

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(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Inasmuch as the illness was not work-related and the treating physician did not released the claimant to return to work between the dates of April 4, 2020 and May 16, 2020, the claimant has not established the ability to work for that time period. Benefits shall be allowed effective May 16, 2020.

From the benefit week ending April 4, 2020 to the benefit week ending May 16, 2020 claimant received \$1,140.00 in state benefits. Said benefits are overpayments.

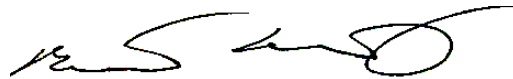
From the benefit week ending April 11, 2020 to the benefit week ending May 16, 2020 claimant received \$4,200.00 in federal FPUC benefits. Said benefits are overpayments.

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 due to disqualifying separations 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>.

DECISION:

The decision of the representative dated May 15, 2020, reference 02 is affirmed, with the dates of disallowance of benefits expanded to the earlier date of April 3, 2020 when claimant originally absented himself from work through May 16, 2020. Claimant is eligible to receive unemployment insurance benefits, effective May 16, 2020, provided claimant meets all other eligibility requirements.

Claimant was overpaid \$1,140.00 in state benefits. Claimant was overpaid \$4,200.00 in federal benefits.



Blair A. Bennett
Administrative Law Judge

June 23, 2020
Decision Dated and Mailed

bab/scn