

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CECELIA EDMONDSON**  
Claimant

**HY-VEE INC**  
Employer

**APPEAL 21A-UI-04124-SN-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

Iowa Code § 96.4(3) (Ability to and Availability for Work)

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 27, 2021, (reference 02) unemployment insurance decision that denied benefits based upon the conclusion she was voluntarily unemployed because he requested and was granted a leave of absence. The parties were properly notified of the hearing. A telephone hearing was held on April 5, 2021. The claimant participated. The employer participated through Assistant Manager of Health Amy Mickey and Hearing Representative Melissa Hill.

**ISSUE:**

Whether the claimant was able and available for work effective November 15, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant, Cecelia Edmonson, was employed started working as a part-time Market Grille clerk for the employer, Hy-Vee Inc, on July 24, 2014. Her hourly rate of pay was \$11.60.

The employer has a Covid19 spread mitigation practice which instructs employees to remain away from its premises for 14 days after testing positive. Employees are allowed to return sooner if they are released by a healthcare provider.

On November 16, 2020, the claimant informed District Store Manager and Assistant Manager of Health Amy Mickey of her positive Covid19 test results. Ms. Mickey instructed the claimant to remain away from the employer's worksite for the next 14 days.

On November 26, 2020, the claimant spoke with a health care professional about her symptoms. The health care professional released the claimant to return to work on November 27, 2020 because her symptoms had diminished. Prior to that day, the claimant had experienced symptoms of Covid19.

On November 27, 2020, the claimant returned to work. If she had not been subject to the employer's policy, work would have been offered to her.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work effective November 15, 2020.

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. 871-24.22(2) provides:

**Benefit 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(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

(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.

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

The claimant is correct that the underlying decision incorrectly states she was on leave. However, the claimant is still disqualified because she was ill with Covid19 during the period in question. Benefits are denied.

**DECISION:**

The January 22, 2021, (reference 01) unemployment insurance decision is affirmed. Benefits are withheld.



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Sean M. Nelson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 725-9067

April 14, 2021  
Decision Dated and Mailed

smn/ol

***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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.