

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JEFFREY E LUNSFORD
Claimant

HY-VEE INC
Employer

APPEAL 21A-UI-07964-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/17/21
Claimant: Appellant (1)

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On March 19, 2021, Jeffrey Lunsford (claimant/appellant) filed an appeal from the March 10, 2021 (reference 01) unemployment insurance decision that denied benefits as of January 17, 2021 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on May 28, 2021. The parties were properly notified of the hearing. The claimant participated personally. Hy-Vee Inc. (employer/respondent) participated by Accounting & HR Manager Jennifer Jones and was represented by Hearing Rep. Barbara Buss.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

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

Claimant's first day of employment was March 7, 2018. Claimant is still employed by employer as a full-time delivery driver. Claimant requested and was granted a leave of absence beginning January 18, 2021. Claimant requested the leave of absence due to his being particularly susceptible to COVID-19 and his doctor's resulting recommendation that he self-isolate until he could be vaccinated. Claimant returned to work on March 24, 2021 and has remained employed there since. Claimant filed weekly claims for benefits from the benefit week ending January 23, 2021 through the benefit week ending March 13, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the March 10, 2021 (reference 01) unemployment insurance decision that denied benefits as of January 17, 2021 based on a finding claimant requested and was granted a leave of absence is **AFFIRMED**.

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.

Claimant requested and was granted a leave of absence. In doing so, claimant made himself unavailable for work. Claimant is therefore not eligible for benefits during the period he was on the leave of absence.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

DECISION:

The March 10, 2021 (reference 01) unemployment insurance decision that denied benefits as of January 17, 2021 based on a finding claimant requested and was granted a leave of absence is **AFFIRMED**. Claimant requested and was granted a leave of absence. Claimant does not meet the availability requirements to receive benefits during that time. Benefits must therefore be denied.



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

June 11, 2021
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.