

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**ARRON B COLLINS**  
Claimant

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**APPEAL NO. 20R-UI-05521-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/22/19**  
**Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits  
Public Law 116-136, Section 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Arron Collins filed a timely appeal from the March 24, 2020, reference 1, decision that denied benefits effective February 23, 2020, based on the deputy's conclusion that Mr. Collins was unduly restricting his availability for work. After due notice was issued, a hearing was held on July 10, 2020. Mr. Collins participated. The administrative law judge took official notice of the agency's administrative record of benefits paid to the claimant (DBRO and KPYX).

**ISSUES:**

Whether the claimant was able to work and available for work during the period of February 23, 2020 through May 16, 2020.  
Whether the claimant was overpaid regular benefits.  
Whether the claimant is eligible for Federal Pandemic Unemployment Compensation.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Arron Collins is a dues paying member in good standing of a trade union local in Louisiana. Mr. Collins pays his annual dues each December and was paid up at the time he established the additional claim for benefits that was effective February 23, 2020. Mr. Collins' contract with the union requires that he only seek and obtain work through the union local. Mr. Collins does not restrict the type of work or pay he is willing to accept. Mr. Collins established the additional claim that was effective February 23, 2020 in response to being laid off from a job in Louisiana effective February 21, 2020. At that time, Mr. Collins' wife was about to give birth to their daughter. Mr. Collins elected to spend three weeks with his wife and daughter and then contacted the union for additional work. This three-week period corresponds to the claim weeks between February 23, 2020 and March 14, 2020. Mr. Collins then had difficulty obtaining additional work through the union due to the COVID-19 pandemic. Mr. Collins continued to be in contact with the union local in his search for new employment and continued to make weekly claims through the benefit week that ended May 16, 2020. Mr. Collins then discontinued his weekly claims because he obtained new employment through trade union local.

At the time Mr. Collins established the additional claim for benefits that was effective February 23, 2020, his weekly benefit amount had already been set at \$481.00. Mr. Collins received that amount for each of the eight weeks between February 23, 2020 and May 16, 2020. Mr. Collins also received Federal Pandemic Unemployment Compensation for the two weeks between April 5 and April 18, 2020.

## **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(2) 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.

(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 Administrative Code section 24.22(3)(c) provides as follows:

c. Union and professional employees. Members of unions or professional organizations who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain active contact with the union's business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement for placement service. The trade, profession or union to which the individual belongs must have an active hiring

hall or placement facility, and the trade, profession or union must be the source customarily used by employers in filling their job openings. Registering with the individual's union hiring or placement facility is sufficient except that whenever all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program, individuals must also actively search for work; mere registration at a union or reporting to union hiring hall or registration with a placement facility of the individual's professional organization does not satisfy the extended benefit systematic and sustained effort to find work, and additional work contacts must be made.

The evidence in the record establishes that Mr. Collins was not available for work within the meaning of the law during the three weeks between February 23, 2020 and March 14, 2020, during which time he deferred his search for new employment so that he could spend time at home with his wife and their new baby. Mr. Collins is not eligible for benefits for the three weeks between February 23, 2020 and March 14, 2020.

The evidence in the record establishes that Mr. Collins was able to work and available for work within the meaning of the law during the period of March 15, 2020 through May 16, 2020 and is eligible for benefits for that period, provided he meets all other eligibility requirements. Mr. Collins is a union member who normally obtains employment through the union. During the period of March 15 2020 through May 16, 2020, Mr. Collins maintained active contact with the union's business agent regarding further employment. The union had an active hiring hall and the source employers contacted for filling jobs. Mr. Collins had not exhausted his regular benefit eligibility during the period of March 15, 2020 through May 16, 2020.

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Because this decision affirms the denial of benefits for the three weeks between February 23, 2020 and March 14, 2020, the \$1,443.00 in regular benefits that Mr. Collins received for those three weeks is an overpayment of benefits that Mr. Collins must repay.

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...

Because this decision allows regular benefits for the period of March 15, 2020 through May 16, 2020, provided the claimant is otherwise eligible, the claimant would also be eligible for Federal Pandemic Unemployment Compensation for the period of March 29, 2020 through May 16, 2020, provided he is otherwise eligible.

**DECISION:**

The March 24, 2020, reference 01, decision is modified as follows. The claimant was not available for work within the meaning of the law during the three weeks between February 23, 2020 and March 14, 2020, and is not eligible for benefits for the three weeks between February 23, 2020 and March 14, 2020. The claimant is overpaid \$1,443.00 in regular benefits for the three weeks between February 23, 2020 and March 14, 2020, and must repay the overpaid benefits. The claimant was able to work and available for work within the meaning of the law during the period of March 15, 2020 through May 16, 2020 and is eligible for benefits for that period, provided he meets all other eligibility requirements. The claimant would also be eligible for Federal Pandemic Unemployment Compensation for the period of March 29, 2020 through May 16, 2020, provided he is otherwise eligible.



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James E. Timberland  
Administrative Law Judge

July 17, 2020  
Decision Dated and Mailed

jet/sam