

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RANDY C HOLTKAMP**

Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 20R-UI-05161-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/04/19**

**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the March 26, 2020 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was scheduled for May 1, 2020. No hearing was held because appellant failed to respond to the hearing notice and provide a telephone number at which appellant could be reached for the scheduled hearing. On May 7, 2020, a default decision was issued dismissing the appeal.

On May 20, 2020, claimant appealed to the Employment Appeal Board (EAB). On May 29, 2020, the EAB remanded this matter to the Appeals Bureau for a hearing on the merits. Upon remand, due notice was issued and a hearing was held on July 1, 2020 at 8:05 a.m. Claimant participated with his attorney, James Hoffman. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant is able to and available for work.

Whether claimant was overpaid benefits.

Whether 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: Claimant filed an initial claim for benefits effective August 4, 2019 and an additional claim effective March 8, 2020. On January 27, 2020, claimant injured his shoulder. Claimant had a weight restriction to not lift more than five pounds. On March 5, 2020, claimant underwent surgery on his shoulder. The weight restriction was modified; claimant could not lift more than 15 pounds. As of March 5, 2020, claimant would be able to work in customer service within the 15-pound weight restriction. Claimant has experience working customer service in an auto parts store

where he answered phones and assisted customers. Claimant has been otherwise able to and available for work since filing his additional claim effective March 8, 2020.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant has been able to and available for work since filing his additional claim effective March 8, 2020. Benefits are allowed provided claimant is otherwise eligible.

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.

Claimant has been physically able to work since filing his additional claim effective March 8, 2020. Claimant identified work that he would be able to perform within his restrictions and for which he has experience. Accordingly, benefits are allowed effective March 8, 2020 provided claimant is otherwise eligible.

Because claimant is not disqualified from receiving benefits, the issue of overpayment is moot. Because claimant is eligible for regular unemployment insurance benefits, he is also eligible for Federal Pandemic Unemployment Compensation. See PL 116-136 §2104(B).

**DECISION:**

The March 26, 2020 (reference 02) unemployment insurance decision is reversed. Claimant has been able to and available for work since filing his additional claim effective March 8, 2020. Benefits are allowed provided claimant is otherwise eligible. The issue of overpayment is moot. Claimant is eligible for Federal Pandemic Unemployment Compensation.



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July 14, 2020  
Decision Dated and Mailed

acw/scn